

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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4 UNITED STATES OF AMERICA, : 08 CR 76

5 :

6 -against-

7 :

United States Courthouse
Brooklyn, New York

8 CHARLES CARNEGLIA, :

9 February 3, 2009

10 Defendant. : 9:00 o'clock a.m.

11 - - - - - X

12 TRANSCRIPT OF TRIAL
13 BEFORE THE HONORABLE JACK B. WEINSTEIN
14 UNITED STATES SENIOR JUDGE, and a jury.

15 APPEARANCES:

16 For the Government:

17 BENTON J. CAMPBELL
United States Attorney
18 BY: ROGER A. BURLINGAME
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21 For the Defendant:

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4 Proceedings recorded by mechanical stenography, transcript
5 produced by computer-aided transcription.
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10 (The following occurred in the absence of the jury.)

11 THE COURT: Good morning, everybody.

12 Where is the defendant?

13 THE COURT: They are bringing him right out, I
14 believe, Judge. He is all dressed and ready to go.

15 THE COURT: It's six minutes after nine. He was
16 supposed to be here at nine.

17 All right. The defendant is now in place.

18 Court Exhibit 2 of today's date, an order to unseal
19 recorded interceptions.

20 Submitted by the government?

21 MR. BURLINGAME: Yes, Your Honor.

22 THE COURT: All right. I am signing it.

23 (So marked.)

24 THE COURT: I have a Court Exhibit 1. Government's
25 letter of February 23rd. February -- it is dated

1 February 2nd, but the Court exhibit is February 3rd.

2 (So marked.)

3 It is raising issues with respect to cooperating
4 witness Peter Zuccaro. The government's position is
5 apparently that they were very close friends and they shared a
6 taste for recreational drugs.

7 I have already ruled that illegal use of narcotics
8 would not be encouraged as evidence. But here is a strong
9 argument that is made that the close relationship in dealing
10 in stolen cars and in sharing drugs makes credible the
11 relationship and the, I take it, admissions and other
12 statements that Zuccaro will make.

13 What is the defendant's view?

14 MR. FARBER: Judge, I believe the government has
15 sufficient other evidence that they can offer at the trial to
16 establish the relationship between Mr. Zuccaro and
17 Mr. Carneglia without having to bring in the use of -- the
18 recreational use of narcotics.

19 There is going to be evidence, my understanding is,
20 from review of the 3500 material, concerning alleged
21 conversations between Mr. Zuccaro and Mr. Carneglia regarding
22 the commission of certain crimes charged here. Additionally,
23 there was going to be direct evidence from Mr. Zuccaro about
24 acts he committed with Mr. Carneglia, again crimes charged
25 here.

1 The use of drugs adds nothing to the other evidence
2 the government has other than to prejudice this case.

3 THE COURT: Well, that's a strong argument. It
4 doesn't convince me.

5 Zuccaro will be under strong credibility pressure,
6 obviously, by a strong cross-examination, to show that he is
7 lying about what the defendant told him or did with him in
8 terms of charged crimes, and to some extent it is
9 bootstrapping if he testifies with respect to sharing drugs
10 and working with stolen cars, because he could be lying about
11 that too. So he is bootstrapping his own veracity in a sense
12 and credibility.

13 Nevertheless, the nature of the testimony and
14 whether it is believable in totality make it, it seems to me,
15 important in assessing the veracity of this witness, who will
16 be subject to attack and, therefore, for this limited purpose
17 I rule that it should come in.

18 I am willing to charge the jury that it is being
19 brought in only to show the relationship and to be used on
20 credibility assessment of Zuccaro, but not as evidence of any
21 other crime that is charged, and that they should be careful
22 not to find the defendant guilty of a crime charged because he
23 did some other, or may have done some other criminal act.

24 If the defense counsel will write out such a
25 proposed charge, subject to discussion and amendment, I will

1 give it.

2 That constitutes my ruling.

3 Is there anything else?

4 MR. BURLINGAME: Yes, Judge.

5 On the topic of defense's attacks on the
6 cooperator's credibility, yesterday Your Honor did not allow
7 Mr. DiLeonardo's cooperation agreement into evidence. I just
8 wanted to argue that I think it is appropriately brought into
9 evidence. I think the cooperation agreement should be
10 admitted into evidence from here forward.

11 The law in the Second Circuit is extraordinarily
12 clear on this point. I will quote from United States versus
13 Argentina, 173 Fed Third, 90: Because of the bolstering
14 potential of cooperation agreements, we have permitted such
15 agreements to be admitted in their entirety only after the
16 credibility of witnesses has been attacked. When defense
17 counsel persistently attacks the cooperating witness'
18 credibility, a district court rightly permits the government
19 to introduce evidence of the various cooperation agreements
20 and to elicit testimony about each cooperating witness'
21 understanding of what his agreement required specifically to
22 tell the truth. Such attack may come in defendant's opening
23 statement or at any point during examination of government's
24 witnesses.

25 In the opening statement Ms. Sharkey said, and

1 quote: The witnesses that the prosecution will bring into
2 this court are thieves, they are murderers and they are liars.
3 They have every incentive to testify against Mr. Carneglia and
4 they possess no gatekeeper to make sure that their testimony
5 is credible and truthful.

6 They look to -- other cooperators are slated to
7 testify in this case are what you can call newly minted. They
8 look to achieve the level of Mr. DiLeonardo's career --

9 THE COURT: You are mumbling and speaking too fast.

10 MR. BURLINGAME: Sorry, Judge.

11 THE COURT: Do not mumble. It confuses the
12 reporter.

13 MR. BURLINGAME: Other cooperating witnesses that
14 are slated to testify in this case are what you call newly
15 minted. They look to achieve the level of Mr. DiLeonardo's
16 career as a cooperating witness. They are cold, calculating
17 liars and they are counting on the government to overlook
18 their lives of crime in exchange for their testimony. Each of
19 these cooperating witnesses possess what's called a
20 cooperation agreement and you will hear about this during the
21 course of the testimony. I suggest a better term for this is
22 a get out of jail free card because in exchange for their
23 testimony each of these witnesses, if they aren't on bail now,
24 expect to be in short order.

25 They have clearly mischaracterized what the

1 cooperation agreement is and I think it's only fair that under
2 the black letter case law that says that we are allowed to
3 introduce the cooperation agreement, we be able to put it in
4 to counter these specific attacks.

5 If you would like me to continue, there were
6 specific attacks during the cross-examination of that witness,
7 as I'm sure there will be of all the witnesses to follow.
8 They opened on the fact that the cooperation agreement is a
9 get out of jail free card. Under Second Circuit law, we are
10 allowed to introduce the cooperation agreement once they have
11 attacked credibility.

12 THE COURT: You may be right in your interpretation
13 of Second Circuit law.

14 My recollection, which I'm sure is not nearly as
15 precise as yours or your reading of the current opinions, is
16 that the Second Circuit indicated it was appropriate and the
17 judge had discretion to put it in. But I don't
18 recall -- you can correct me -- the Second Circuit ruling that
19 the district judge must put it in.

20 MR. BURLINGAME: Well, Judge, if 403 would be the
21 reason that you would keep it out, is that -- would that be
22 the reason?

23 THE COURT: 403 and the fact that it is a complex
24 agreement which is certain to confuse the jury because they
25 will spend a lot of time construing and examining the clauses

1 that have nothing to do with what we are dealing with.

2 Now, if you offer the specific paragraph which is
3 all that we are talking about that requires him to testify
4 truthfully or the deal is off, or one or two other specific
5 paragraphs, I am perfectly willing to do that. But I am not
6 putting in before this jury a complex agreement that requires
7 the scholarship of an advanced criminologist to understand.

8 MR. BURLINGAME: Judge, if I might?

9 The Second Circuit has addressed exactly Your
10 Honor's point and it has held: We hold that the written text
11 of a cooperation agreement may be admitted during the witness'
12 direct testimony whenever defense attack on credibility in
13 opening has made evidence of the whole agreement admissible.
14 We see no reason to distinguish between the written text of
15 the agreement and testimony about it if the rehabilitation
16 stage has otherwise been reached by the time direct
17 examination of the witness begins. The decision about the
18 form of the evidence the agreement should take lies within the
19 trial judge's discretion under federal law of Rule 403. In
20 exercise at that discretion it may sometimes be appropriate to
21 redact the agreement to eliminate potentially prejudicial,
22 confusing or misleading matter.

23 Then it spells out deleting references to protective
24 custody, the witness' family, deleting references to organized
25 crimes and threats against the witness' life. No such

1 redaction is necessary in this case, where they were operating
2 off a standard cooperation agreement.

3 THE COURT: That was a case in which they upheld the
4 exercise of the Court's discretion. They did not mandate, as
5 I recall -- but you've got the case before you -- that the
6 Court follow the exercise in the case that you are relying on.

7 MR. BURLINGAME: But the point, Judge, is that if
8 we -- if they have called the cooperation agreement --

9 THE COURT: Excuse me.

10 I am not going to allow in that long text.
11 How many pages is it?

12 MR. BURLINGAME: I think it's seven pages.

13 THE COURT: It's highly complex. It requires a
14 great deal of elucidation.

15 Why don't you mark off the paragraphs you need? I
16 will let those come in and then the jury won't be confused.
17 You will get better force for your argument from those rather
18 than a lot of camouflage around it, and the defendants, I
19 don't think, will have anything to really argue about, should
20 there be an appeal, in the unlikely case that there should be
21 an appeal.

22 MR. BURLINGAME: We will do that, Judge.

23 My only problem with this approach is that obviously
24 the point of introducing the cooperation agreement is to show
25 this we have nothing to hide. If you redact the agreement, it

1 looks like we have something to hide.

2 THE COURT: No, it won't.

3 Write something out and I will tell the jury, I am
4 allowing this in. I am not allowing in the full complex
5 agreement because I don't want them to be spending a lot of
6 time construing clauses that have nothing to do with their
7 work.

8 MR. BURLINGAME: Okay.

9 THE COURT: I will take the onus, not you.

10 MR. BURLINGAME: We will draft something up.

11 Thank you, Judge.

12 MS. SHARKEY: Respectfully, we would request that
13 the Court keep the entire document out. I understand you are
14 limiting -- I appreciate it. I think you are right, as far as
15 that goes. But it is in the Court's discretion to keep it
16 out.

17 The Court gave full play, frankly, to the
18 prosecution to redirect the witness on any matter. It was a
19 short redirect. But he did go at length on direct about what
20 his expectations were and what the expectations were of the
21 government.

22 I mean, so much so that when I objected to the
23 witness' narrative, Your Honor said no, counsel, let him
24 speak, and you did.

25 The witness repeatedly said how truthful he was and

1 how it was unimportant to him what the government's goals
2 were, that he was just going to speak the truth.

3 Now, whether or not the jury believes that at the
4 end of the day we will discover in a couple of months, but,
5 nonetheless, I don't think that the Court should allow any
6 portion of that document in. The witness testified to it at
7 length and I think the Court's initial ruling is correct.

8 THE COURT: I appreciate the vote of confidence in
9 that initial ruling.

10 The witness' entire credibility is under attack.
11 His statement of what is in the agreement is subject to the
12 same credibility attack, that he is lying about everything.

13 We already know from the answers to the
14 questionnaires that we have and the oral voir dire of the
15 prospective jurors that many of them do not trust a witness of
16 this kind who is testifying in order to gain favor. Under
17 those circumstances, it is perfectly appropriate for the
18 proponent of the witness, in this case the government, to
19 provide a scrap of paper which is objectively accurate as the
20 hook upon which it will argue the credibility of the witness.
21 Otherwise, it is just the witness at sea, bootstrapping
22 himself.

23 So this scrap of writing, although not particularly
24 significant, is significant to the prosecutor and entitled
25 under Rule 401 and 402. He is entitled to it and he will get

1 it.

2 What else?

3 MR. BURLINGAME: Judge, just one other minor matter
4 for the government, which is that I -- at the beginning of the
5 trial the Court kindly allowed the government to designate a
6 number of party representatives. I forgot one of the more
7 peripheral case agents who may be called to testify at the end
8 of the case about some certain matters. I would ask that he
9 also be --

10 THE COURT: Give his name, please.

11 MR. BURLINGAME: Jonathan Malone.

12 THE COURT: Granted.

13 MR. BURLINGAME: Thank you.

14 THE COURT: Anything further?

15 MR. NORRIS: Yes, Your Honor, one other application.

16 Mr. Zuccaro, we anticipate in discussing his
17 cooperation agreement, it will come out that one of the crimes
18 he pled guilty to rendered him eligible for the death penalty.
19 We just ask that at the appropriate time -- it can be later,
20 at the end of the direct, or the appropriate time -- the Court
21 give the jury an instruction that the death penalty is not an
22 issue in this case. Just to ensure that they are not confused
23 as to whether their decision --

24 THE COURT: I am not understanding the application.

25 MR. NORRIS: It is a similar application to the one

1 we made in the Pizzonia case, when Mr. Zuccaro testified then.
2 It was just -- Mr. Zuccaro cooperated, one of the murders that
3 he told the government about was a murder that made him death
4 eligible.

5 THE COURT: The witness was death eligible?

6 MR. NORRIS: Yes.

7 The application we made was simply at some point to
8 tell the jury that --

9 THE COURT: This defendant is not death eligible?

10 MR. NORRIS: The defendant is not, certainly.

11 THE COURT: Yes.

12 MR. NORRIS: The witness, to avoid any confusion or
13 any -- any confusion about the jury's role in assessing his
14 credibility, that the death penalty for this witness is not
15 before them. Just to clarify that.

16 THE COURT: Is not before them?

17 MR. NORRIS: Correct.

18 THE COURT: I don't understand.

19 MR. BURLINGAME: I think the main point, Judge, is
20 that we don't want the jury thinking this might be a death
21 penalty trial because this person pled guilty to a murder
22 and --

23 THE COURT: That this defendant is not?

24 MR. BURLINGAME: We just want the Court to explain
25 this case has nothing to with the death penalty.

1 THE COURT: The case we are trying?

2 MR. BURLINGAME: Yes.

3 THE COURT: All right. There is nothing wrong with
4 that. And that the penalty, whatever it is, is not for them
5 to consider.

6 Write it out. I will give it.

7 MR. NORRIS: Thank you, Judge.

8 THE COURT: Anything else?

9 MR. FARBER: No, Judge.

10 THE COURT: Okay. Are we ready to proceed?

11 MR. BURLINGAME: Yes, Judge.

12 THE COURT: Where is the witness?

13 MR. NORRIS: Could I just have one moment, Your
14 Honor, to confirm the witness' understanding of Your Honor's
15 rulings about the scope of his testimony?

16 THE COURT: Do we have a full jury?

17 Court Exhibit 3 is the proposal of the defendant.

18 (So marked.)

19 I have permitted this witness to testify concerning
20 use of illicit drugs between this witness -- not between -- but
21 with this witness concerning the sharing of illicit drugs with
22 this witness and the defendant. This evidence is not being
23 offered to establish the truth of the -- no. It is not being
24 offered to establish the crime of drug use by the defendant.
25 It is being -- only being offered to permit the witness to

1 describe the nature of his relationship with the defendant.

2 Then I will add what I wanted to have in here. The
3 fact that the defendant committed crimes, if he did, other
4 than those charged, is not a ground for finding him guilty of
5 a crime charged.

6 All right?

7 Defendant?

8 MR. FARBER: Yes.

9 MS. SHARKEY: Yes.

10 Thank you, Judge.

11 MR. NORRIS: Could I just get it back from the
12 beginning to make sure I have it all?

13 THE COURT: I have permitted this witness to testify
14 concerning the sharing of illicit drugs with this witness and
15 the defendant. This evidence is not being offered to
16 establish the crime of drug use by the defendant. It is only
17 being offered to permit the witness to describe the nature of
18 his relationship with the defendant. The fact that the
19 defendant committed crimes, if he did, other than those
20 charged is not a ground for finding him guilty of a crime
21 charged.

22 I think that's correct.

23 All right. That is Court Exhibit 4?

24 THE LAW CLERK: Three.

25 THE COURT: Three.

1 Anything further?

2 MR. BURLINGAME: While Mr. Norris mentions Your
3 Honor's in limine rulings to the witness, I will draft
4 something out on the death penalty.

5 THE COURT: All right. Why don't you go check with
6 your witness?

7 MR. NORRIS: Okay.

8 THE COURT: Bring in the witness, please,
9 Mr. O'Hara.

10 Please take the stand.

11 You are still under oath, sir.

12 THE WITNESS: Yes, Your Honor.

13 THE LAW CLERK: The jury is on its way, Judge.

14 (Jury present.)

15 THE COURT: Good morning, everybody.

16 Nice to see you all.

17 Sit down, everybody.

18 We are keeping a close watch on the weather. There
19 is more snow coming. We will do everything possible to
20 protect you.

21 (Continued on next page.)

22

23

24

25

1 THE COURT: Continue. The witness is still under
2 oath.

3 V I N C E N T O H A R A ,

4 called as a witness, having been previously duly
5 sworn, was examined and testified as follows:

6 MR. BURLINGAME: I have no further questions of this
7 witness, Judge.

8 THE COURT: All right.

9 MS. SHARKEY: May I, Judge?

10 THE COURT: Yes.

11 MS. SHARKEY: Thank you.

12 CROSS-EXAMINATION

13 BY MS. SHARKEY:

14 Q Good morning, sir.

15 How are you?

16 A Good morning.

17 I'm fine.

18 Q You testified yesterday that you had reviewed the
19 surveillance -- the video surveillance of the Ravenite Social
20 Club on Mulberry Street, right?

21 A That's correct.

22 Q The reason that you and your colleagues were surveilling
23 the Ravenite was that, in your opinion, that club was the
24 center of John Gotti, Senior's activities, right?

25 A That's correct.

1 Q And I think you testified on direct, and correct me if I
2 am wrong, that as a result of your surveillance, you had hoped
3 to obtain a wiretap for inside that club, right?

4 A I don't believe I testified to that.

5 Q Okay. Probably the guy before you. Forgive me.

6 I will withdraw that question.

7 How long did this surveillance last, the video
8 surveillance, of the Ravenite Social Club?

9 A From beginning of 1988 through the end of 1990.

10 Q Okay. I think you testified yesterday that when you
11 first became a member of the FBI, it was your job to organize
12 that video surveillance, right?

13 A When I was first assigned to this particular squad, yes.

14 Q And that video surveillance is -- is now organized,
15 right?

16 A Excuse me?

17 Q That surveillance, those tapes, are now organized,
18 catalogued, correct?

19 A Correct.

20 Q And you testified that you were familiar or familiarized
21 yourself with many of those tapes, correct?

22 A Correct.

23 Q You were familiar with many of the images and the names
24 that those images correlated with?

25 Do you understand my question?

1 A Yes.

2 Correct.

3 Q To take it out of lawyer speak, you learned who the guys
4 in the photos were, right?

5 A I familiarized myself with the individuals on the video,
6 using video itself, the surveillance log as well as other
7 still photos from our squad files.

8 Q When you saw a photo or when you saw an image you became
9 familiar with who that image was, who the person was, right?

10 A Correct.

11 Q Okay. Many persons that you reviewed appeared in those
12 surveillances on a regular basis, correct?

13 A That's correct.

14 Q Some people appeared every day, right?

15 A I am not quite sure if they appeared every day. But
16 certain individuals appeared more often than others.

17 Q And some people appeared on a weekly basis, correct?

18 A That's correct.

19 Q Now, you testified yesterday that not only did you review
20 and organize the database, but that someone else also
21 catalogued all the images so that you could do a search, if
22 you were so inclined, of a particular person, right?

23 A That's correct.

24 The names were documented in an electronic database
25 relative to each specific surveillance date.

1 Q Okay. You requested, if I am correct, that the images,
2 if they were in there, of Charles Carneglia be made available
3 to you, right, or that the tapes be identified for you?

4 A I asked the analyst to run Charles Carneglia's name
5 through that database.

6 Q Okay. It would be accurate to say that for that
7 database -- from 1988 to what year, sir?

8 A 1990.

9 Q You came up with the two tapes that you testified about
10 yesterday, right?

11 A That's correct.

12 Q From that entire period of time, you had those two
13 images, one from November 22nd of '89 and one from
14 November 29th of 1990, right?

15 A Correct.

16 Q And those images were -- withdrawn.

17 The surveillance was done Monday to Friday, for
18 about two years, two-and-a-half years, right?

19 A I believe so.

20 I think they also did some weekends. I don't want
21 to say it was specifically Monday to Friday but predominantly
22 Monday to Friday, with some weekend dates in there as well, I
23 believe.

24 Q Of that entire time period, we have those two tapes that
25 you talked about yesterday on direct examination, right?

1 A Correct.

2 Q Now, you referred to those tapes as composite tapes,
3 right?

4 A Tapes that I created from the originals, yes, composite
5 tapes.

6 Q That's another term for editing, correct?

7 A Perhaps. I guess you would call it editing, yes.

8 Q And you were given instructions on what those tapes
9 should reveal, is that correct?

10 A I don't believe anyone gave me instructions. I --

11 Q I don't mean anything sinister by that question, sir.

12 I mean, did somebody tell you what to look for to
13 create those images?

14 A Other than have those tapes that had Charles Carneglia on
15 them, no. I created them on my own. As long as the defendant
16 was on them and nobody told me all right, use this one, use
17 that one. Everything that's on those tapes were based on my
18 own.

19 Q Okay. All of the images that exist in the database of
20 Charles Carneglia the jury saw yesterday, right?

21 A For those two dates, correct.

22 Q Well, there are no other dates that were excluded?

23 A Not that I am aware of, no.

24 MS. SHARKEY: I have nothing further.

25 Thank you very much.

1 THE COURT: Thank you.

2 MR. BURLINGAME: Very briefly, Judge?

3 THE COURT: All right.

4 REDIRECT EXAMINATION

5 BY MR. BURLINGAME:

6 Q Special Agent O'Hara, based on your hundreds of hours of
7 watching the Ravenite videos, was the club frequented more
8 typically by made members of the Mafia or associates?

9 MS. SHARKEY: Objection. No foundation for this
10 witness.

11 THE COURT: No. I will allow it.

12 A Predominantly by made members of the Gambino Family.

13 Q Ms. Sharkey asked you some questions about the editing of
14 the tapes, creating the composite videos.

15 A Right.

16 Q Yesterday we entered in the entire videos for the two
17 days covered into evidence?

18 A That's correct.

19 Q One of those is three hours and one of those is four
20 hours?

21 A The 1989 version is four hours. The 1990 date is three
22 hours, correct.

23 Q The entire video is in evidence and can be reviewed by
24 the jury during deliberations?

25 A That's correct.

1 Q What's on the composite is solely comprised of clips that
2 are on the original videos?

3 A Correct.

4 Q And any doubt in your mind that that was the defendant on
5 the videos?

6 MS. SHARKEY: Objection, as to form.

7 THE COURT: He's already said he had no doubt.

8 Sustained.

9 Q Any doubt in your mind it was the defendant kissing Peter
10 Gotti on the videos?

11 MS. SHARKEY: Objection as to form.

12 THE COURT: Sustained.

13 Q Any doubt in your mind it was John Gotti, Senior on the
14 videos?

15 MS. SHARKEY: Objection.

16 THE COURT: Sustained.

17 MR. BURLINGAME: I have nothing further.

18 THE COURT: Thank you, sir.

19 That will be all.

20 MS. SHARKEY: Thank you, agent.

21 (Witness excused.)

22 THE COURT: Next witness.

23 MR. NORRIS: The government calls Peter Zuccaro.

24 THE COURT: Mark the government's admission as Court
25 Exhibit 4.

1 (So marked.)

2 Ladies and gentlemen, during the course of this next
3 witness' testimony, you will learn that he is eligible for the
4 death penalty, the witness, in connection with a murder he
5 pled guilty to committing. I want you to understand that this
6 defendant who is now being tried is not eligible for the death
7 penalty. You will not be asked to decide death. That's not a
8 sentence available for him.

9 Is that clear?

10 Don't consider what the sentence will be. That is
11 solely for the Court to decide. You are only deciding guilt
12 or no guilt.

13 Okay?

14 Thank you.

15 Mark it Court Exhibit 4.

16 MR. BURLINGAME: Judge, do you want to read defense
17 counsel's?

18 THE COURT: While we are waiting for the witness, I
19 might as well, I suppose.

20 This is the same witness and you are introducing
21 these portions during this witness' testimony, as I understand
22 it, is that correct?

23 MR. NORRIS: Correct.

24 THE COURT: With the same witness, I am going to
25 permit the witness to testify, if he does, concerning what I

1 am told is his recollection, he will say, of illicit drugs that
2 this witness and the defendant shared. This evidence is not
3 being offered to establish the crime of drug possession by the
4 defendant. It is only being offered to permit the witness to
5 describe the nature of his relationship with the defendant.
6 In other words, to consider the credibility of what the
7 witness says about that relationship and what the defendant
8 did.

9 Is that clear to you?

10 The reason I am emphasizing this is that the fact
11 that the defendant may have committed crimes, if he did, other
12 than those charged, is not a ground for finding him guilty of
13 a crime charged. Just because he may or may not have been a
14 criminal in a non-charged case doesn't permit you to find him
15 guilty of a crime he is charged with. The government has the
16 burden of establishing guilt of those charged beyond a
17 reasonable doubt.

18 Is that clear?

19 You can't find somebody guilty because you didn't
20 like what he did in an uncharged matter.

21 You all understand that, do you?

22 All right. Thank you.

23 (The witness is present.)

24 Swear the witness, please.

25 THE CLERK: Please stand and raise your right hand.

1 You understand your obligation to tell the truth,
2 the whole truth and nothing but the truth under penalty of
3 perjury?

4 THE WITNESS: I do.

5 THE CLERK: You may be seated.

6 Please state and spell your name for the reporter.

7 THE WITNESS: Peter Zuccaro, Z U C C A R O.

8 DIRECT EXAMINATION

9 BY MR. NORRIS:

10 Q I will ask you, please, to speak into the microphone.
11 Keep your voice up.

12 Are you a part of organized crime?

13 A Yes.

14 Q What was your affiliation in organized crime?

15 A I was an associate first in the Bonnano Crime Family,
16 later on to become an associate in the Gambino Family.

17 Q When were you first associated with the Gambino Family?

18 A 1986.

19 Q How long were you associated with the Gambino Family?

20 A All the way up until June of 2005, when I started
21 cooperating with the government.

22 Q Looking around the courtroom, do you see anyone else here
23 who is affiliated with the Gambino Family?

24 A Yes; Charles.

25 Q Who?

1 A Charles Carneglia, right here.

2 Q Please identify him by something he is wearing.

3 A Gold cardigan sweater, gray hair, gray beard.

4 MR. NORRIS: Let the record reflect the witness has
5 identified the defendant.

6 THE COURT: Yes.

7 Q How long have you known the defendant?

8 A Since I'm about 13 or 14 years old.

9 Q How old are you now?

10 A Fifty-three.

11 Q How long have you known him?

12 A About 40 years.

13 Q Is he affiliated with the Gambino Family the whole time
14 you knew him?

15 A Yes.

16 Q Did he have an -- did you have an official relationship
17 with him in the Gambino Family?

18 A Yes.

19 Q What?

20 A I reported to him after I came home from jail.

21 Q Have you committed crimes with him?

22 A Yes.

23 Q Have you committed crimes at his direction?

24 A Yes.

25 Q Were you close with him?

1 A Very.

2 Q How close?

3 A He was my best man at my wedding. He has been my friend
4 my whole life.

5 Q Have you participated in any murders with him?

6 A No.

7 Q Have you agreed -- did you ever agree to participate in a
8 murder with him?

9 A Yes.

10 Q Have you participated in drug dealing with him?

11 A Yes.

12 Q Stealing cars?

13 A Yes.

14 Q Assaults?

15 A Yes.

16 Q Whom did you assault with the defendant?

17 A Albert Gelb and Carmine Agnello.

18 Q What was the defendant's position in the Gambino Crime
19 Family?

20 A He was an associate, later on to become a made member.

21 Q What was his role in the family?

22 A Hit man.

23 Q Did the defendant tell you about people he was involved
24 in killing?

25 A Yes.

1 Q How many people?

2 A Three.

3 MS. SHARKEY: Objection.

4 THE COURT: Overruled.

5 Q How many people?

6 A Three.

7 Q Who?

8 MS. SHARKEY: Objection.

9 THE COURT: Overruled.

10 A Albert Gelb, Salvatore Puma, and Louis DiBono.

11 Q Where were you born?

12 A Brooklyn, New York.

13 Q Where did you grow up?

14 A East New York, Brooklyn.

15 Q What did your father do?

16 A Drove a truck.

17 Q What did your mother do?

18 A My mother raised us till we were all out of school and
19 then went to work in the Hong Kong Shanghai Bank.

20 Q Was your father affiliated with organized crime?

21 A No.

22 Q Your grandfather?

23 A Yes.

24 Q What family?

25 A Bonanno.

1 Q Was he involved in -- how was he involved in organized
2 crime?

3 A I didn't know. They really kept it away from me.

4 Q Was he involved in a social club?

5 A Yes.

6 Q What's a social club?

7 A Where members of organized crime and associates gather to
8 discuss business, play cards, talk about day-to-day
9 activities, hang around.

10 Q Did you ever go to your grandfather's social clubs as a
11 kid?

12 A Yes.

13 Q Was that your first exposure to organized crime?

14 A Yes.

15 Q When did you first want to become a gangster?

16 A As a young boy.

17 Q How far did you go in school?

18 A Tenth grade.

19 Q Where are you currently living?

20 A Federal prison.

21 Q How long have you been there?

22 A Excuse me.

23 Q How long have you been there?

24 A Since June of '04.

25 Q How many times have you been arrested in your lifetime?

1 A Numerous times.

2 Q When did the majority of those arrests take place?

3 A In the seventies.

4 Q What types of crimes were you arrested for in the 1970s?

5 A Assaults, robberies, drugs, car theft; a lot of different
6 crimes.

7 Q Did you serve any time in prison for those crimes?

8 A No.

9 Q Were you also arrested in the 1980s?

10 A Yes.

11 Q How many times?

12 A Once.

13 Q For what?

14 A Armored truck hijackings.

15 Q How many armored trucks did you hijack?

16 A Two.

17 Q Were you armed?

18 A Yes.

19 Q Did anyone get hurt?

20 A No.

21 Q How much money did you steal?

22 A Between both hijackings, about a million dollars.

23 Q Did you get prosecuted and convicted?

24 A Yes.

25 Q How much time did you serve in prison?

1 A About seven years, one month.

2 Q Were you also arrested in the 1990s?

3 A Yes.

4 Q How many times?

5 A Three times.

6 Q What for?

7 A Distribution of marijuana, DWI, and violation of a --
8 domestic dispute.

9 Q Did you plead guilty to your involvement in distributing
10 marijuana?

11 A Yes.

12 Q How much time did you serve in jail?

13 A About ninety days.

14 Q Did you plead guilty to the DWI?

15 A Yes.

16 Q Did you serve any time in jail?

17 A No.

18 Q Did you plead guilty to violating the order of
19 protection?

20 A No.

21 Q What happened to that?

22 A It was just dismissed.

23 Q Were you arrested in the 2000s?

24 A Yes.

25 Q How many times?

1 A One time.

2 Q When?

3 A I surrendered in Florida in July of '04.

4 Q Where did you surrender?

5 A Miami, Florida.

6 Q For what?

7 A RICO.

8 Q What's RICO?

9 A Racketeering.

10 Q What's your understanding of what that is?

11 A That's Racketeering Influenced Corrupt Organizations Act.

12 Q What does that mean in simple terms?

13 A It is when a crew of people are together and committing
14 criminal acts together, keeping themselves in organized crime
15 to further their, you know, crew.

16 Q What organization did you commit crimes for?

17 A Gambino.

18 Q Did you plead guilty?

19 A Yes.

20 Q What specific crimes?

21 A Kidnapping, and I think it was armored truck hijacking.

22 I am not absolutely sure about that.

23 Q How much time were you sentenced to?

24 A Forty-six months.

25 Q While you were incarcerated on this case, did you get

1 charged with new crimes?

2 A Yes.

3 Q Where were you charged?

4 A In the Eastern District of New York.

5 Q Where is that?

6 A Out in Central Islip.

7 Q Are you in the Eastern District of New York right now?

8 A Yes.

9 Q When were you charged with new crimes?

10 A March of '05.

11 Q What crimes were you charged with?

12 A Distribution of marijuana, growing hydroponic marijuana
13 in warehouses, and money laundering.

14 Q Until you were incarcerated, were you a lifelong
15 criminal?

16 A Yes.

17 Q At times, while you were committing crimes, did you also
18 hold some job?

19 A Yes.

20 Q What jobs?

21 A I worked in scrap yards, opened a scrap yard. I worked
22 on construction.

23 Q You mentioned the family Gambino Family. What's the
24 Gambino Family?

25 A It is one of the five organized crime families based in

1 New York.

2 Q What are the others?

3 A Luchese, Bonanno, Colombo and Genovese.

4 Q Are there any families based in New Jersey?

5 A Yes.

6 Q What?

7 A DeCalvacante family.

8 Q What is the main goal of the Gambino Family?

9 A Money and power.

10 Q You testified that your status in the Gambino Family was
11 associate. Is that correct?

12 A Yes.

13 Q When were you first associated with the Gambino Family?

14 A 1986.

15 Q You were associated with the Bonanno family before that?

16 A Yes.

17 Q When were you first associated with the Bonanno Crime
18 Family?

19 A Sometime in the mid-to-late seventies.

20 Q Have you heard the term La Cosa Nostra?

21 A Yes.

22 Q What does it mean?

23 A This thing of ours.

24 Q What does it refer to?

25 A It refers to the Crime Family.

1 Q Mob?

2 A Yes.

3 Q Are the Bonanno and Gambino Crime Families part of La
4 Cosa Nostra?

5 A Yes, they are.

6 Q Does the Gambino Family have an organizational structure?

7 A Yes, they do.

8 Q Did you learn about the structure?

9 A Yes, I did.

10 Q What are the top leadership positions of the Gambino
11 Family?

12 A Boss, underboss and consiglieri.

13 Q What is the role of the boss?

14 A The boss dictates what happens in the family. He keeps
15 everything together. He makes sure that his orders are
16 followed and he's the boss. He runs the family.

17 Q What's the scope of his power?

18 A Very large.

19 Q Is there any limit to it?

20 A No.

21 Q What's the role of the underboss?

22 A The underboss dictates the rules that the boss lays down
23 and sets forth.

24 Q What's the role of the consiglieri?

25 A The consiglieri is like a lawyer, like a guy that would

1 straighten out problems within the family, between made
2 members or associates or captains, or interfamilial problems.

3 Q What positions are under the top leadership positions?

4 A Captains and skippers, made men, soldiers.

5 Q Are soldiers under captains?

6 A Yes.

7 Q What's another name for a soldier?

8 A A made man.

9 Q What position is under soldier?

10 A Associate.

11 Q Does an associate report to anyone?

12 A Yes.

13 Q Who?

14 A He can either report to a made member, a soldier or a
15 captain.

16 Q In some instances, do associates report to people other
17 than soldiers or captains?

18 A It's a rarity, but it could happen.

19 Q In some instances, do associates report to other
20 associates?

21 A Yes. That could happen too.

22 Q Are you familiar with certain terms used in organized
23 crime?

24 A Yes.

25 Q Are you familiar with the term "crew"?

1 A Yes.

2 Q What's a crew?

3 A A crew is a number of men that are together, that commit
4 crime together, that run the day-to-day operations of what is
5 going on for that soldier or captain.

6 Q Do captains have crews?

7 A Yes, they do.

8 Q By definition?

9 A Yes.

10 Q Do soldiers sometimes have crews?

11 A Yes, they do.

12 Q Do associates sometimes have crews?

13 A Yes, they do.

14 Q When typically does an associate report to another
15 associate?

16 A It's a rarity, but it happens. Like I had a bunch of
17 guys around me that stood with me, that we are very close with
18 me. It happens.

19 Q Did you ever report to another associate?

20 A Yes, I did.

21 Q Who?

22 A Charles.

23 Q Charles Carneglia?

24 A Yes.

25 Q The defendant?

1 A Yes.

2 Q How does an associate become a made member of an
3 organized crime family?

4 A He's either a good earner or a good killer.

5 Q There is another term for a killer?

6 A Hit man.

7 Q You heard the term "doing work"?

8 A Yes.

9 Q What does that mean?

10 A That means killing.

11 Q Are you aware of how the defendant became a made member
12 of the Gambino Crime Family?

13 A Yes.

14 Q Did he tell you?

15 A No. We discussed it but he didn't say that that's how he
16 definitely got straightened out.

17 Q Who is Louis DiBono?

18 A Louis DiBono was the guy that was killed to get Charles
19 inducted into the family.

20 MS. SHARKEY: Objection.

21 THE COURT: Strike the last part of it.

22 Q What position did Louis DiBono --

23 THE COURT: Only consider the words "was killed."

24 Q Was Louis DiBono affiliated with the Gambino Crime
25 Family?

1 A Yes.

2 Q What position did he hold?

3 A He was a made member.

4 Q Do you know who killed him?

5 A Yes.

6 Q Did the defendant --

7 MS. SHARKEY: Objection.

8 Q Did the defendant tell you?

9 THE COURT: Yes.

10 Q Did the defendant tell you who killed him?

11 A Yes.

12 Q Who did he say killed him?

13 A He did.

14 MS. SHARKEY: Objection.

15 THE COURT: Overruled.

16 Q Who wanted Louis DiBono dead?

17 A John Gotti.

18 Q What was his position at the time?

19 A Boss.

20 Q Are you familiar with the term inner circle?

21 A Yes.

22 Q What does it refer to?

23 A It referred to John and his associates when they were up
24 and coming in the family.

25 Q Referring to John Gotti?

1 A Yes.

2 Q Who was in it?

3 A John Gotti, Angelo Ruggiero, Gene Gotti, Johnny Carneg,
4 Charlie Carneg, Anthony Rampino and Billy Boy Johnson.

5 Q Why was Charles Carneglia in John Gotti's inner circle?

6 MS. SHARKEY: Objection.

7 THE COURT: I will allow it.

8 First establish how he found out.

9 Q Do you know if the defendant was in John Gotti's inner
10 circle?

11 A Yes.

12 Q How did you find out?

13 A Because it was an open known fact that everybody that was
14 close to John like that was within the inner circle.

15 Q Did the defendant ever tell you?

16 A Yes.

17 Q Did he tell you why he was in John Gotti's inner circle?

18 A He grew up with John. He did a lot of good things for
19 them. He was good at what he did, hitting people.

20 Q Was he a good earner for John Gotti?

21 A No, not really.

22 His brother was the earner.

23 Q What was he good at?

24 MS. SHARKEY: Objection.

25 THE COURT: Did he say?

1 Q Did he say what he was good at?

2 A Yes.

3 Q What?

4 A Killing.

5 MR. NORRIS: One moment, Your Honor.

6 (Pause.)

7 MR. NORRIS: May I approach?

8 THE COURT: You needn't ask me about that.

9 Q Showing you what's in evidence as Government Exhibit 2-P.

10 Who is that?

11 A John Gotti.

12 Q Showing you what's in evidence as Government

13 Exhibit 2-XX-2.

14 Who is that?

15 A Gene Gotti.

16 Q Any relation to John?

17 A His younger brother.

18 Q Showing you what's in evidence as Government

19 Exhibit 2-XX-1.

20 Do you recognize that?

21 A It looks like a picture of John when he was sick.

22 Q Are you sure?

23 A Not absolutely sure. I never seen him sick like that.

24 Q Do you know who else it might be?

25 A It could be Gene Gotti.

1 Q Showing you what's in evidence as Government
2 Exhibit 2-NNN.

3 Do you recognize that?

4 A Yes, I do.

5 Q Who is it?

6 A Angelo Ruggiero.

7 Q Did he have a nickname?

8 A Quack Quack.

9 Q Do you know why he was called Quack Quack?

10 A Because of his walk.

11 Q Showing you what's in evidence as Government
12 Exhibit 2-LL.

13 Who is that?

14 A John Carneg, Johnny Carneglia.

15 Q Any relationship to the defendant?

16 A Yes.

17 Q Did --

18 A His older brother.

19 Q Showing you what's in evidence as Government Exhibit
20 2-C-2.

21 Who is that?

22 A Charles.

23 Q The defendant?

24 A Charles Carneglia.

25 Yes, it is.

1 Q Showing you what's in evidence as Government
2 Exhibit 2-C-1.

3 Do you know who that is?

4 A Yes.

5 Q Who?

6 A Charles.

7 Q The defendant?

8 A Yes.

9 Q What was the highest rank of John Gotti -- what was the
10 highest rank that John Gotti held in the family?

11 A Boss.

12 Q What was the highest rank that Angelo Ruggiero held in
13 the family?

14 A Captain.

15 Q What was the highest rank that John Carneglia held in the
16 family?

17 A Captain.

18 Q What was the highest rank that Eugene Gotti had in the
19 family?

20 A To my knowledge, captain.

21 Q What was the highest rank the defendant held in the
22 family?

23 A Soldier.

24 Q On the street, is it important to know who was in what
25 family and what their status is?

1 A Yes.

2 Q Why?

3 A So you don't step on anybody's toes or make any kind of
4 problems with any other families or any members that are in
5 the family they are involved with.

6 Q What could happen if you committed crimes against other
7 members of organized crime?

8 A It could be a beef, a problem, get straightened out; just
9 creates a lot of waves and havoc.

10 Q What happened if you killed another member of organized
11 crime?

12 A Made member?

13 Q Yes.

14 A It's a death sentence. Without permission, it's a death
15 sentence.

16 Q Are there rules in organized crime?

17 A Yes.

18 Q How did you learn about them?

19 A I was groomed to learn the rules as I grew up. I was
20 taught. Charles told me about certain rules, his brother,
21 Frank Bonomo taught me about certain rules from organized
22 crime and a lot of people that I interacted with through the
23 years, you learn about these things.

24 Q Who is Frank Bonomo?

25 A Frank Bonomo was a captain in the Bonanno family.

1 Q Did you have an official relationship with him?

2 A Yes.

3 Q What?

4 A I was directly with him at one time.

5 Q What are some of the rules in organized crime?

6 A Never pick up your hands to a made member, never
7 disrespect a made member in the family, never sleep with a
8 made member's wife, and also respect a made member in the
9 family.

10 Q Is there any rule about talking about organized crime
11 with non-made members?

12 A Yeah.

13 Q What's that rule?

14 A You know, don't talk about the activity of the family.
15 Keep everything on the hush. Don't talk about who is a made
16 member or anybody's status within the family. It's not
17 supposed to be something that's discussed. It's a secret
18 society. It's the underworld.

19 Q Any rules about drugs?

20 A Yes.

21 Q What are they?

22 A You are not supposed to deal drugs.

23 Q Any rule about using drugs?

24 A Yes.

25 Q What?

1 A Not supposed to use drugs.

2 Q Any rule about coming in when you are called for?

3 A Yes.

4 Q What?

5 A You have to go.

6 Q Are these rules always followed?

7 A No.

8 Q Are there any rules about the ethnic background that
9 someone must have to become a member of organized crime?

10 A You must be of Italian descent. Or today it's got to be
11 half Italian at least.

12 (Continued on next page.)

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1 BY MR. NORRIS:

2 Q That rule has changed over time?

3 A Yes.

4 Q Have other rules changed over time?

5 A I would say they did, depending on who wants to enforce
6 what rule.

7 Q Are there any rules about physical appearance?

8 A Yes. You got to be cleancut. You got to keep yourself
9 like you're on parade. You got to keep a good appearance.

10 Q What do you mean by "on parade"?

11 A You know, you got to keep people looking up to you. You
12 have to make a good impression on the people.

13 Q Facial hair permitted?

14 A I never seen it permitted. I mean, I seen people with
15 beards before, but it's really shunned.

16 Q Is it a rule that facial hair is not permitted?

17 A It's a rule, but, you know, it's really not a stringent,
18 enforced rule.

19 Q Is it a rule the same way that not sleeping with another
20 made member's wife is a rule?

21 A No.

22 Q Is the no-facial-hair rule always followed?

23 A No.

24 Q Can you think of any examples when the no-facial-hair
25 rule wasn't followed?

1 A When people want to be deceptive, they'll grow facial
2 hair, when they want to hide, when they are on the run. In
3 the '80s, when the commission case was going to trial, Jerry
4 Lang grew a beard and moustache to go on trial.

5 Q Who is Jerry Lang?

6 A Jerry Lang at the time was the underboss of the Colombo
7 Crime Family.

8 Q Colombo Family?

9 A Yes.

10 Q How do you know he had a beard?

11 A I was there at MCC with him. I watched him grow it.

12 Q What's the MCC?

13 A Metropolitan Correctional Center in Manhattan. It's a
14 federal holding center.

15 Q He was there because he was on trial?

16 A Yes.

17 Q What was the commission case, briefly?

18 MS. SHARKEY: Objection, relevance.

19 THE COURT: Sustained. It's not necessary.

20 Q What kind of facial hair did Jerry Lang have?

21 MS. SHARKEY: Objection ruled.

22 THE COURT: Overruled.

23 A A beard and a moustache.

24 Q Did he grow it before or after he was arrested?

25 A During the time he was in MCC, he grew it.

1 Q Did you have an understanding as to why he grew the
2 beard?

3 MS. SHARKEY: Objection.

4 THE COURT: Sustained.

5 Q Was Jerry Lang a member in good standing at the time that
6 you saw him with the beard?

7 A Yes.

8 MS. SHARKEY: Objection.

9 THE COURT: I'll allow it.

10 Q Have you ever seen anyone else in organized crime with
11 facial hair?

12 A I seen a couple of different people with facial hair.

13 Q Like who?

14 A The zips, some of them had facial hair from the Bonanno
15 Family. Frankie Guidici, while he was in jail, had facial
16 hair.

17 Q What's a zip?

18 A A zip is a guy from Italy, from Sicily that just comes
19 into this country and normally with the Bonanno Crime Family.

20 Q You mentioned Frank Guidici. Who is that?

21 MS. SHARKEY: Objection, relevance.

22 THE COURT: I'll allow it.

23 Q Who is that?

24 A He's an associate of the Gambino Family.

25 Q Whose crew is he in?

1 A First, he was in Iggy Alonga's crew, and then he was
2 transferred to Skinny Dom's crew.

3 Q What kind of facial hair did he have?

4 A Moustache.

5 Q Showing you what's in evidence as Government's Exhibit
6 2-BBB. Who is that?

7 A Frankie Guidici.

8 Q Again, what was the highest status he attained in the
9 Gambino Family?

10 A Associate.

11 Q Showing you what's in evidence as Government's Exhibit
12 2-V. Who is that?

13 A Dom Pizzonia, Skinny Dom.

14 Q What's the highest position he attained in the Gambino
15 Family?

16 A Captain.

17 Q Have you ever had a beard, sir?

18 A No.

19 Q Have you ever wanted to have a beard?

20 A No.

21 Q Have you ever known anyone in organized crime who wanted
22 facial hair but didn't grow any because of the rules?

23 MS. SHARKEY: Objection.

24 THE COURT: Sustained.

25 Q What about the rule against drug dealing; is that always

1 followed?

2 A No.

3 Q Can you think of any examples of anyone in organized
4 crime who have dealt drugs?

5 A Examples?

6 Q Yes. Can you name anyone?

7 A Yes.

8 Q Who?

9 A Gene Gotti, John Carneglia, Eddie Lino, myself, Charles.

10 Q The defendant?

11 A Angelo Ruggiero.

12 Yes.

13 Q Were they punished by the Gambino Family for drug
14 dealing?

15 A No, they weren't.

16 Q Who decides how the rules are enforced?

17 A The boss or skipper or whoever the beef is going to
18 that's making the decisions.

19 Q What's a beef?

20 A A beef is a problem. It's when there's something that
21 comes up that is making problems within the family or somebody
22 creates a problem in the family.

23 Q But who was the boss at the time that John and Charles
24 Carneglia and Gene Gotti and Eddie Lino were dealing drugs?

25 A Paul Castellano.

1 Q And after that?

2 A John Gotti.

3 Q In your experience, are organized-crime rules enforced
4 consistently?

5 A No.

6 Q In your experience, are organized-crime rules enforced
7 differently depending on who violates them?

8 A Yes.

9 Q Have you ever known the defendant to violate any
10 organized-crime rules?

11 A Yes.

12 Q Which ones?

13 A Drug dealing.

14 MS. SHARKEY: Objection.

15 THE COURT: Overruled. I'll allow it.

16 A Drug dealing, not reporting in. That's about it.

17 Q Drug use?

18 A Oh, yes.

19 Q Facial hair?

20 A Yes.

21 Q Have you ever known the defendant to be disciplined?

22 A Spoken to, but not disciplined.

23 Q He broke rules. Do you know why he wasn't disciplined?

24 MS. SHARKEY: Objection.

25 THE COURT: Establish how he learned it.

1 Q How did you learn about how the defendant broke the rules
2 you just listed?

3 A How did I learn about it?

4 Q Yes. How did you learn that he dealt drugs?

5 A I dealt drugs with him.

6 Q How did you learn that he used drugs?

7 A I used drugs with him.

8 Q How did you learn that he didn't come in when he was
9 called for?

10 A Because people complained about it.

11 Q Did the defendant ever tell you whether he got
12 disciplined for breaking any of those rules?

13 A No.

14 Q Have you ever heard from anyone whether the defendant was
15 ever disciplined for breaking any of those rules?

16 MS. SHARKEY: Objection.

17 THE COURT: Sustained.

18 Q Do you have an understanding as to why -- strike that.

19 Is the defendant considered a valuable member of
20 organized crime?

21 MS. SHARKEY: Objection.

22 THE COURT: How he learned it, find out how he
23 learned it before you ask it.

24 Q Did you learn whether the defendant was considered a
25 valuable member of the Gambino Crime Family?

1 A Yes.

2 Q How did you learn it?

3 A From himself and the people in the crew.

4 Q Did you come to form an understanding as to why he was
5 considered valuable?

6 A Yes.

7 Q Why?

8 MS. SHARKEY: Objection, form, foundation.

9 THE COURT: Find out how he learned it, please.

10 Q How did you learn it?

11 A From the people in the crew and the defendant himself.

12 Q What was that understanding as to why he was considered
13 valuable?

14 MS. SHARKEY: Objection.

15 THE COURT: You may answer.

16 A He was good at what he did.

17 Q What did he do?

18 MR. FARBER: Objection.

19 THE COURT: I'll allow it.

20 A He killed good.

21 Q Do you know what it means to be put on the shelf?

22 A Yes.

23 Q What does that mean?

24 A That means you're not recognized in the family.

25 Q Is it a temporary or a permanent condition?

1 A It can be temporary. It can be permanent.

2 Q In all the years you knew him, did you ever learn whether
3 the defendant was ever put on the shelf?

4 A Not to my knowledge.

5 Q Now, you testified that you were first associated with
6 the Bonanno Crime Family in the 1970s; is that right?

7 A Yes.

8 Q In a few sentences, can you explain to the jury how you
9 came to be associated with the Bonanno Family?

10 A I owned a body-and-fender shop in East New York,
11 Brooklyn. An associate from the Gambino Family came to my
12 shop when I was not there. He took some tires for a car,
13 never paid for them.

14 I ran into him. He told me to meet him at his club,
15 he would straighten it out. I went to the club. It was Jo Jo
16 Corozzo's club, who was an associate of the family at the
17 time.

18 We got into an altercation. I fought with them, and
19 it was on after that. I wasn't a member of any kind of
20 criminal organization or an associate at the time, and I was
21 brought in to meet Frank Bonomo, Sr., who later went to
22 straighten the problem out.

23 Q Let me stop you right there?

24 First, when you said "it was on," what did you mean.

25 A That there was a problem. I was going to either do

1 something to them or they were going to do something to me.

2 Q And the associate with the Gambino Family that you had
3 the problem with, who was that?

4 A Johnny Beano.

5 Q Do you know his real last name?

6 A No.

7 Q What did he eventually become?

8 A A made member in Jo Jo Corozzo's crew.

9 Q What did Jo Jo Corozzo eventually become?

10 A A made member.

11 Q Did he rise higher than that?

12 A Yes.

13 Q What?

14 A Consigliere.

15 Q You mentioned that you were put in touch with Frank
16 Bonomo. Is that the Bonanno captain you mentioned earlier?

17 A Yes.

18 Q What happened when Bonomo became involved?

19 A He went and seen Tony Lee, who was a captain in the
20 family at the time, the Gambino Family, and straightened the
21 problem out.

22 Q How did he straighten the problem out?

23 A They went to a sit-down.

24 Q What's a sit-down?

25 A That's a meeting of two made members or two captains when

1 they get together and straighten out a problem.

2 Q Who was Tony Lee sitting down for?

3 A Jo Jo Corozzo and Johnny Beano.

4 Q Who was Frank Bonomo sitting down for?

5 A For me.

6 Q Was the problem resolved after the sit-down?

7 A Yes.

8 Q What was the resolution?

9 A That it was straightened out, Leave him alone, and he'll
10 leave you alone.

11 Q Did you get paid for the tires?

12 A No.

13 Q What was the status of your relationship with Frank
14 Bonomo after the sit-down?

15 A I was put on the record with him.

16 Q What does it mean to be on record with somebody?

17 A That I was now with him, that I reported to him within
18 the Bonanno Family at the time.

19 Q Did you have any kind of financial obligation to Frank
20 Bonomo when you began reporting do him?

21 A Not really, no.

22 Q Did you ever give him any money?

23 A Yes.

24 Q What?

25 A I used to give him money here and there with the things I

1 did in the street. I would buy him dinners, buy him clothes,
2 suits, tires for his car. I would give him whatever he
3 needed.

4 Q Showing you what's in evidence as Government's Exhibit
5 2-F, who is that?

6 A Jo Jo Corozzo.

7 Q And again, what was the highest rank he attained?

8 A Consigliere.

9 Q Showing you what's in evidence as Government's Exhibit
10 2-AAA, who is that?

11 A Tony Lee.

12 Q Do you know his full name?

13 A Yes.

14 Q What?

15 A Guttieri.

16 Q What's his first name?

17 A Anthony.

18 Q What's the highest rank he attained?

19 A Captain.

20 Q Where were you living in 1986?

21 A Federal prison.

22 Q Why?

23 A I was doing time for the armored-truck highjackings.

24 Q Those are the ones you testified about before?

25 A Yes, from 1981.

1 Q What prison were you in?

2 A I was designated to Otisville, New York.

3 Q While you were in Otisville, were you asked to testify at
4 a trial?

5 A Yes.

6 Q Who was on the trial?

7 A John Gotti, Gene Gotti, Johnny Carneglia, Anthony
8 Rampino, Willy Boy Johnson, Lenny de Maria and Nicky Corozzo.

9 Q Were you familiar with all of those people at the time?

10 A Yes.

11 Q Were they all affiliated with a particular organized
12 crime family?

13 A Yes.

14 Q What family?

15 A Gambino.

16 Q Were you in prison with any of them?

17 A Yes.

18 Q Which ones?

19 A John Gotti and Lenny de Maria.

20 Q What was John Gotti's status at the time of the trial?

21 A He was the boss.

22 Q Who asked you to testify at the trial?

23 A Vic Giuliani and Tony Lombardino, John Carneglia's
24 lawyers.

25 Q What were you asked about?

1 A About me kicking up money to the Gambino Family.

2 Q Had you kicked up money to the Gambino Family?

3 A No, I did not.

4 Q Were you asked to testify about kicking up money
5 generally or relating to a specific crime?

6 A I'm not totally sure about that. It was about kicking up
7 money to the Gambino Family.

8 Q Again, what does "kicking up" mean?

9 A That means giving money that goes upstairs to the made
10 members, the underboss and the boss, captains.

11 Q In the early '90s, before you went to prison, had you
12 been kicking up money to the Gambino Family at all?

13 A Before I went to prison?

14 Q Yes.

15 A No. I never kicked up any money to the Gambino Family.
16 I made money with them, but I never kicked money up to them.

17 Q When you were with the Bonanno Family at the time you
18 went to prison -- is that correct?

19 A Yes.

20 Q -- that was 1981?

21 A Yes. When I went to prison, yes.

22 Q And at that trial that John Gotti and John Carneglia
23 asked you to testify at, was your testimony generally
24 truthful?

25 A Yes.

1 MS. SHARKEY: Objection.

2 Q How so?

3 THE COURT: I'll allow it.

4 Q How so?

5 A If I didn't have to implicate anybody in any kind of
6 criminal activity, I didn't take the Fifth or tell the truth
7 about it, maybe. Maybe, given Frank Bonomo money, in the
8 trial that came up. There's things that I avoided.

9 Q Had you kicked up money to the Gambino Family from your
10 crimes?

11 A No.

12 Q So, that was truthful?

13 A Yes.

14 Q But other parts of the testimony might not have been
15 truthful?

16 A Right.

17 Q Was everyone on trial acquitted?

18 A Yes.

19 Q After the trial, did your association in organized crime
20 change?

21 A Yes, it did.

22 Q What happened?

23 A The boss, Phil Rastelli, of the Bonanno Family, Joe
24 Massino, Angelo Ruggiero and a bunch of guys from the Gambino
25 Family were all housed in the MCC in Manhattan.

1 Angelo Ruggiero, who was a captain at the time in
2 the Gambino Family, and Joe Massino got together in 11 North
3 in a housing unit at MCC New York. They had a discussion.

4 After they had a discussion, they called me in to
5 where they were discussing this situation, and they told me I
6 was now switched from the Bonanno Family to the Gambino
7 Family, and I was to report to Johnny Carneglia.

8 Q Who was Joe Massino?

9 A Joe Massino was at the time a captain, acting boss.

10 Q What family?

11 A Bonanno Family.

12 Q What did you say when you were told that you had been
13 switched to the Gambino Family?

14 A I didn't say anything. I just asked Joe why, and he told
15 me, Don't worry about why, that's what the situation is, and
16 that's what you're going to do.

17 Q What did you think of the idea?

18 A I wasn't too happy about it, because I was already
19 established in the Bonanno Family.

20 Q What did you hope to do in the Bonanno Family?

21 A Become a made member.

22 Q How do you become a made member?

23 A By killing or being a good earner.

24 Q You have to be formally inducted?

25 A Yes.

1 Q Since when had you hoped to become a made member of the
2 Bonanno Family?

3 A Since I first got on board with them.

4 Q In the mid-1970s?

5 A Yes.

6 Q Is that the first time you had ever wanted to become a
7 gangster?

8 A No.

9 Q When was the first time?

10 A Before that, when I started committing crimes at the age
11 of fifteen, sixteen years old.

12 Q What year would that have been?

13 A Late '60s, 1970, '71.

14 Q Why did you want to become a gangster?

15 A Because everybody in my neighborhood was a gangster,
16 everybody in my neighborhood aspired to be that, and that's
17 the way it was in the neighborhood I come from.

18 Q Did you look up to those people?

19 A Yes, I did.

20 Q Why?

21 A The power, the money, the way they lived, things they had
22 and how they lived their lives.

23 Q Your testimony is that you were switched to John
24 Carneglia in 1986 in the Gambino Family; is that correct?

25 A Yes.

1 Q And you were still in prison at the time?

2 A Could have been '86, '87, you know.

3 Q You were still in prison at the time?

4 A Yes.

5 Q When were you released from prison?

6 A March 23, 1988.

7 Q Who did you report to when you were released?

8 A A couple of months later, I went and seen Johnny Canig.

9 Q What was his status in the family at the time?

10 A Captain.

11 Q Where was the defendant when you came home from prison?

12 A He was still on the run.

13 Q What does it mean to be on the run?

14 A On the lam.

15 MS. SHARKEY: Objection.

16 THE COURT: I'll allow it.

17 A You're hiding.

18 Q On the lam?

19 A Yes.

20 Q What does that mean?

21 A You're hiding. You're hiding. You're hiding from the
22 authorities. You're hiding from a certain situation that's a
23 problem.

24 Q Is that the only time you knew the defendant to be on the
25 lam?

1 A No.

2 Q How often did it happen?

3 MS. SHARKEY: Objection.

4 THE COURT: I'll allow it.

5 A A couple of times.

6 Q Once you came home from prison in March of 1988, how long
7 did you report to John Carneglia?

8 A It wasn't very long, because he went to prison.

9 Q How long after?

10 A I would say maybe six months, nine months, a year.

11 Q What did he go to prison for?

12 A Heroin distribution.

13 Q What was he sentenced to?

14 A I think fifty years or fifty-five years.

15 Q To be clear: Was that a different case from the one you
16 testified at for John Gotti that you discussed a few moments
17 ago?

18 A Yes.

19 Q Was John Carneglia sent away to prison with anyone else?

20 A Yes.

21 Q Who?

22 A Gene Gotti.

23 Q What was his sentence?

24 A Fifty years or fifty-five years. Somebody got
25 fifty-five, somebody got fifty. I'm not clear on who got the

1 fifty, who got the fifty-five.

2 Q What was he given that sentence for?

3 A Heroin distribution, and I think there was a possession
4 of a weapon.

5 Q After John Carneglia went to prison, who did you report
6 to?

7 A Charles.

8 Q The defendant?

9 A Yes.

10 Q What was his status at the time in the Family?

11 A He was an associate.

12 Q Who did the defendant begin reporting to when his brother
13 went away to prison?

14 MS. SHARKEY: Objection.

15 THE COURT: Overruled.

16 A Answer?

17 Q Yes.

18 THE COURT: Yes.

19 A Pete Gotti.

20 Q Who is he?

21 A He was a captain in the family.

22 Q Any relationship to John and Gene Gotti?

23 A Yes.

24 Q What?

25 A Older brother.

1 Q Did he later report to anyone else, the defendant?

2 A Yes.

3 Q Who?

4 A Tommy Sneakers.

5 Q What's his null name?

6 A Cacciopoli, Thomas Cacciopoli.

7 Q When did the defendant become a made member in the
8 Gambino Family?

9 MS. SHARKEY: Objection.

10 THE COURT: Overruled.

11 A Sometime in the early 1990s.

12 Q After he killed Louis DiBono?

13 MS. SHARKEY: Objection.

14 THE COURT: Ask him how he found out he became a
15 member, first.

16 Q How did you find out he became a member?

17 A How did I find out he became a member? Kevin McMahon.

18 Q Who is that?

19 A Kevin McMahon was a close associate of John Carneglia and
20 Charles.

21 Q Did the defendant ever tell you he became a made member?

22 A In so many words.

23 Q Did he ever tell you about the induction ceremony?

24 A Just that he was inducted with Frankie Fappiano.

25 Q Did he tell you that before or after Louis DiBono was

1 killed?

2 A After Louie DiBono was killed.

3 Q How long did you report to the defendant?

4 A I reported to Charles from, I would say, when John went
5 away until I was switched to Iggy Alonga, maybe in 1995.

6 Q For about how many years did you report to him?

7 A Five years, six years.

8 Q And to be clear: Even while -- before John Carneglia
9 went to prison, were you still under the defendant?

10 A Yes.

11 Q Why did you stop reporting to him around 1995?

12 A There was problems over a drug deal that went bad.

13 Q And you began reporting to Iggy Alonga after that?

14 A Iggy Alonga? Yes.

15 Q Who is he?

16 A He was a made member in the family, later on to become a
17 captain.

18 Q Showing you what's in evidence as Government's Exhibit
19 2-A, who is that?

20 A Iggy Alonga.

21 Q Do you know his real first name?

22 A Ignazio.

23 Q His highest rank in the family?

24 A Captain.

25 Q How long were you with Iggy?

1 A I reported to Iggy all the way until I surrendered in
2 Florida and became a cooperator.

3 Q You testified before that you were arrested and
4 incarcerated in 2004; is that right?

5 A Yes.

6 Q And that you decided to cooperate in 2005?

7 A Yes.

8 Q Were you still with Iggy until you began to cooperate?

9 A Yes.

10 Q You didn't cease being with Iggy in 2004, when you were
11 incarcerated?

12 A I didn't see him. I was incarcerated. I didn't contact
13 him, and I didn't have contact with him for maybe since
14 October of 2003, when JJ Gurino was killed.

15 Q I'll come back to that. In your mind, when you went to
16 prison in 2004, did you stop being under Iggy?

17 A No, I didn't stop being with Iggy.

18 Q And in OC, in organized crime, what effect does being
19 incarcerated have on your status?

20 A You're in jail and you're not active.

21 Q Does it change who you are with?

22 A No.

23 Q Did you ever hope to become a made member in the Gambino
24 Family?

25 A Yes.

1 Q When?

2 A When I first came home from prison and things were going
3 real good.

4 Q That was 1988?

5 A Yes, '88, '89.

6 Q Did you still want to be a made member in the 1990s?

7 A I was a little discouraged.

8 Q Did you still want to become a made member in the 1990s?

9 A I would have, yes.

10 Q Were you ever proposed for membership?

11 A Yes.

12 Q When?

13 A Sometime in 2002, 2003.

14 Q By who?

15 A Early 2003.

16 Jackie Cavallo and Tommy Sneakers Cacciopoli.

17 Q Who is Jackie Cavallo?

18 A Jackie Cavallo was a made member in the family, a
19 soldier.

20 Q Was he close to the defendant?

21 A Very.

22 Q What about Tommy Sneakers, was he close to the defendant?

23 MS. SHARKEY: Objection to the form.

24 THE COURT: I'll allow it.

25 A Yes, very close.

1 Q Who were the defendants' closest friends in the Gambino
2 Family, if you know?

3 MR. FARBER: Objection.

4 A His closest friends?

5 THE COURT: Don't answer yet.

6 I want it based on his own observation. Qualify the
7 question, please.

8 Q Do you know who the defendant's closest friends were in
9 the Gambino Family?

10 A Yes.

11 Q How did you find out?

12 A I lived with him my whole life. I grew up with him. I
13 seen who his closest friends were.

14 Q Did you ever see him associating with individuals in
15 particular?

16 A All the time.

17 Q Who did you see him associating with?

18 A John Gotti, Angelo Ruggiero, Gene Gotti, his brother,
19 Tony Roach -- Anthony Rampino is Tony Roach -- Tommy
20 Cacciopoli, Jackie Cavallo.

21 Q Did you form an opinion as to who his closest friends
22 were?

23 A They were all his closest friends.

24 Q Showing you what's in evidence as Government's Exhibit
25 2-B, who is that?

- 1 A Tommy Cacciopoli.
- 2 Q Again, what's his nickname?
- 3 A Tommy Sneakers.
- 4 Q What's the highest rank he attained?
- 5 A Captain.
- 6 Q Showing you what's in evidence as Government's Exhibit
- 7 2-E, who is that?
- 8 A Jackie Cavallo.
- 9 Q What's the highest rank he attained?
- 10 A Soldier.
- 11 Q You just testified that you were proposed to be inducted
- 12 into the Gambino Crime Family by Jackie Cavallo; is that
- 13 right?
- 14 A Yes.
- 15 Q Did you go on to be formally inducted?
- 16 A No.
- 17 Q Why not?
- 18 A I refused.
- 19 Q Why?
- 20 A I was discouraged with what was going on.
- 21 Q Is John Gotti, Sr. alive or dead?
- 22 A John Gotti, Sr.? He's dead.
- 23 Q When did he die?
- 24 A Sometime in 2002.
- 25 Q Do you remember what month?

1 A I think it was June.

2 Q How did you feel when he died?

3 A How did I feel when he died?

4 Q Yes.

5 A I didn't feel anything. I just -- he died. He ruined
6 everything.

7 Q What do you mean?

8 A Just the flamboyant nature that he ran around, always
9 being in the newspapers. Nothing was conducted correctly,
10 everything was John's way, you know. Just everything that I
11 was led to believe, that this is a secret society and it's the
12 underworld, was exposed, it was out in the open, always
13 written about in the newspapers. It was -- how would you say?
14 Do as I say, not as I do.

15 Q Is it fair to say that you were disgusted with the
16 Gambino Crime Family?

17 A Yes.

18 Q Did you stop committing crimes for them?

19 A No.

20 Q When did you stop committing crimes for the Gambino
21 Family?

22 A I guess up as to the day I came to prison in 2004.

23 Q When did you first meet the defendant?

24 A Meet him?

25 Q Yes.

1 A About thirteen, fourteen years old.

2 Q Late 1960s?

3 A Yes, mid-'60s.

4 Q What year were you born?

5 A Fifty-five -- about right, 1968, 1969, yes.

6 Q How did you meet him?

7 A They owned a gas station on Sutter Avenue and Crescent
8 Street in East New York.

9 Q Who is "they"?

10 A John Canig and Charles Carneglia.

11 Q Where did they live?

12 A They lived on Hemlock Street.

13 Q What neighborhood?

14 A East New York.

15 Q Is the defendant your age?

16 A No. He's a little older than me.

17 Q About how much older?

18 A Maybe eight, nine years.

19 Q Do you know his father's name?

20 A William.

21 Q What did he do?

22 A I don't know exactly what he did.

23 Q Did he have any affiliation with organized crime?

24 A Yes.

25 MS. SHARKEY: Objection.

1 THE COURT: I'll allow it.

2 Q How?

3 A He was very good friends with Paul Vario and a lot of
4 other organized-crime figures in the neighborhood.

5 Q Who was Paul Vario?

6 A A captain in the Luchese Family.

7 Q Is the defendant's father alive or dead?

8 A He's deceased.

9 Q What about his mother, what did she do?

10 A His mother was a seamstress.

11 Q Do you know if she's alive?

12 A I don't know.

13 Q Was she alive when you went to prison?

14 A Yes.

15 Q Was the defendant close to his parents?

16 A Yes.

17 Q Which one in particular?

18 A In particular? I never seen his relationship with his
19 father, but with his mother, very close.

20 Q You mentioned that the defendant has a brother John?

21 A Yes.

22 Q Does he have any other siblings?

23 A Not to my knowledge.

24 Q Was the defendant close to his brother?

25 A Yes.

1 Q Who was older?

2 A John.

3 Q Who was in charge?

4 A John.

5 Q Did they get along well?

6 A Yes.

7 Q All the time?

8 A Not all the time, but they got along. They made it work.

9 Q When didn't they get along?

10 A When Charles would make mistakes or he wasn't doing what
11 John wanted him to do, or John wasn't doing what Charles
12 wanted.

13 Q You said that John was protective of Charles?

14 A Very.

15 Q Have you ever known them to argue?

16 A Yes.

17 Q Is it fair to say they had an older brother-younger
18 brother relationship?

19 A Yes.

20 Q Did the defendant ever get married?

21 A No.

22 Q What about his brother?

23 A Yes.

24 Q To who?

25 A To Helene.

1 Q Did John and Helene have kids?

2 A Yes, they did.

3 Q How many?

4 A Three.

5 Q Names?

6 A Christopher, Justine and John.

7 Q Did you ever know any of them to engage in criminal
8 activity?

9 A Yes.

10 Q Who?

11 A Chris.

12 Q What kind of criminal activity was he engaged in?

13 A Marijuana, cocaine business.

14 Q He dealt drugs?

15 A Yes.

16 Q Did he use drugs?

17 A Yes.

18 Q Did you ever know the defendant to use drugs?

19 A Yes.

20 Q What drugs?

21 A Marijuana, cocaine.

22 MS. SHARKEY: Objection.

23 THE COURT: I'll allow it.

24 But establish first how he came to know it.

25 Q How did you come to know that the defendant used drugs?

1 A I used drugs with him.

2 Q What drugs did you use with him?

3 A Marijuana, cocaine, Quaaludes, Percodan.

4 Q Where would you use drugs with him?

5 A In the neighborhood.

6 Q Where specifically?

7 A In the Hamptons, wherever we were.

8 Q Where else in the neighborhood?

9 A In his apartment, in the back of the junkyard, in the
10 barn.

11 Q Where is the junkyard?

12 A The junkyard is on Fountain Avenue in East New York.

13 Q Who owned it?

14 A Charles and John.

15 Q What about the barn, where was that?

16 A Around the corner, on Pine Street.

17 Q What's the defendant like when he's using drugs?

18 MS. SHARKEY: Objection.

19 THE COURT: Based on his own observation.

20 Q In your experience, based on your own observation, what's
21 the defendant like when he's using drugs?

22 A It depended on the mood he was in. If he was in a good
23 mood, he was happy. If he was in a bad mood, he would be in a
24 bad mood, you know, he would be irritable.

25 Q Did you know him to use alcohol to excess?

1 A Yes.

2 Q Do you know his favorite alcohol?

3 A Cutty Sark.

4 Q What's that?

5 A That's a scotch whiskey.

6 Q Does the defendant become, in your experience, does the
7 defendant become more talkative when he was using alcohol or
8 drugs?

9 MS. SHARKEY: Objection.

10 THE COURT: I'll allow it.

11 A Yes.

12 Q Did he ever tell you about any crimes he committed while
13 he was high on drugs or alcohol?

14 MS. SHARKEY: Objection.

15 A I didn't check and see if he was high. He told me about
16 crimes he's committed.

17 Q You're not aware of any specific conversations you had
18 about crimes he committed when he was in fact high?

19 A No, I'm not aware of. You know, I didn't check and see
20 if he was high.

21 Q Did you and the defendant go out to dinner together?

22 A Yes, we did.

23 Q Where would you go?

24 A Peter Luger's, Smith & Wollensky, the Lindenwood Diner.

25 Q What's the Lindenwood Diner?

1 A The Lindenwood Diner is a diner that was with John and
2 Charles Carneglia in the neighborhood on East New York on
3 Linden Boulevard.

4 Q Did they hang out there often?

5 A Almost every day since the place opened.

6 Q When did it open?

7 A I think in the mid-'60s or early '60s. I'm not
8 absolutely sure about that.

9 Q You mentioned the Hamptons.

10 A Yes.

11 Q When did you go to the Hamptons with the defendant?

12 A When he came back from the lam.

13 Q What year?

14 A In 1988, summer of '88, maybe.

15 Q What was the occasion?

16 A There was no occasion. John Carneglia invited us out to
17 the Hamptons. He was out there at the beach house that he
18 rented with his wife and children and a couple of other
19 people, associates of the family.

20 Q What time of year?

21 A The summertime.

22 Q Name the people who were there.

23 A Myself, Kevin McMahon. Charles drove out. I think Tony
24 Muscatelli was there, Carlo was there, Hunter Adams. Couple
25 of people.

1 Q Do you know Carlo's last name?

2 A No, I don't. He owned Da Noi Restaurant in Manhattan,
3 but.

4 Q Is he affiliated with organized crime?

5 A Yes.

6 Q What position?

7 A He was an associate at the time.

8 Q You said you drove out there with the defendant and Kevin
9 McMahon?

10 A Yes.

11 Q How did you get there?

12 A In my Bronco.

13 Q How long did you stay?

14 A Three days.

15 Q Where did you sleep?

16 A On the couch in John's living room.

17 Q Kevin McMahon, was he close to the Carneglias?

18 A Very.

19 Q Was he in their crew for a long time?

20 A Since a young boy.

21 Q Where was the house in the Hamptons that you went to on
22 that day?

23 A On Dune Road.

24 Q On the beach?

25 A Right on the beach, right on the ocean.

1 Q Do you remember what Kevin McMahon was doing that day?

2 MS. SHARKEY: Objection.

3 A There was three days. There was a lot of things he did.

4 THE COURT: I'll allow it.

5 Q While he was there, did he do anything specific that you
6 recall?

7 A Yes. He used to film and take pictures.

8 Q Is that something he did a lot?

9 A Yes.

10 Q Did he like electronics?

11 A Yes, he did.

12 Q Did anyone else arrive while you were there?

13 A Hunter Adams and Carlo from Da Noi.

14 Q Did they arrive together?

15 A No, separately.

16 Q How did Carlo arrive?

17 A In a fountain raceboat.

18 Q Whose boat was that?

19 A John Gotti's.

20 Q Do you recall the name of the boat?

21 A Not Guilty.

22 Q Hunter Adams, how did he arrive?

23 A He arrived in a new Hustler that his grandparents just
24 bought him.

25 Q What's a Hustler?

1 A Another kind of raceboat.

2 THE COURT: Why don't we break now for a few
3 minutes.

4 MR. NORRIS: Can I show him two photos and then
5 stop?

6 THE COURT: Go ahead. Of course.

7 Q Showing you what's in evidence as Government's Exhibit
8 2-CC, who is that?

9 A Hunter Adams.

10 Q What's the highest rank he obtained in the Gambino
11 Family?

12 A An associate.

13 Q Showing you what's in evidence as Government's Exhibit
14 2-T, who is that?

15 A Kevin McMahon.

16 Q What's the highest rank he attained in the Gambino
17 Family?

18 A Associate.

19 MR. NORRIS: Okay, your Honor.

20 THE COURT: Take ten, please.

21 (Jury excused.)

22 THE COURT: All right. Thank you.

23 (Recess taken.)

24 (In open court; jury not present.)

25 THE COURT: Bring in the defendant, please.

1 THE MARSHAL: Yes, your Honor.

2 (Jury present.)

3 THE COURT: Be seated, please.

4 BY MR. NORRIS:

5 Q What's the defendant like?

6 A As far as what?

7 Q You've known the defendant for about forty years; is that
8 right?

9 A Yes.

10 Q What's he like?

11 MS. SHARKEY: Objection to form.

12 THE COURT: I don't know what you mean by "like."
13 What things does he like, or what is his appearance?

14 Q How would you describe the defendant's personality?

15 THE COURT: You may answer.

16 A He's got an outgoing personality sometimes. Sometimes
17 he's antisocial, sometimes he's mad, sometimes he's glad.

18 Q Do you consider him flamboyant?

19 A No.

20 Q Low key?

21 A Yes.

22 Q Did the defendant like to hang out at the social clubs?

23 A No.

24 Q Why not?

25 MS. SHARKEY: Objection.

1 Q Did he ever tell why not?

2 A Yes.

3 Q Why not?

4 MS. SHARKEY: Objection.

5 THE COURT: I'll allow it.

6 A Brings too much attention, too much surveillance.

7 Q Did you hang out at social clubs?

8 A No, I did not.

9 Q Why not?

10 A Too much attention, surveillance, too much heat, things
11 like that, exposure.

12 Q Are you familiar with the Ravenite?

13 A Yes.

14 Q What is it?

15 A It's a Gambino social club on Mulberry Street in
16 Manhattan.

17 Q Whose club was it?

18 A At one time, it was Neil Dellacroce's club. Later, it
19 became John Gotti's club.

20 Q Who was Neil Dellacroce?

21 A At the time that he was alive, he was the underboss of
22 the family.

23 Q When did he die?

24 A Neil passed away -- I think it was '85, 1985, right
25 before Christmas.

1 Q Have you ever been to the Ravenite?

2 A No.

3 Q Do you know if the defendant ever went there?

4 A Not to my knowledge.

5 Q You mentioned heat. That's another term for law
6 enforcement surveillance?

7 A Yes.

8 Q Did you know the defendant to be concerned about law
9 enforcement surveillance?

10 MS. SHARKEY: Objection.

11 THE COURT: What did he tell him about it, is the
12 question. Ask it.

13 Q Did the defendant ever tell you about his concerns about
14 law enforcement surveillance?

15 A All the time.

16 Q When did he tell you?

17 A He always told me to watch out that I wasn't being
18 surveilled or he wasn't being surveilled, that they were
19 around constantly, you always got to watch what's going on
20 around you.

21 That coincidence is for fools. Don't ever believe
22 that things are just a coincidence. If you see one person
23 somewhere and see that person somewhere else, always watch
24 your mirrors on your car.

25 Never hang around the same place. Never to talk

1 anywhere where it could be bugged, like in a house or -- you
2 know, just be careful about your whereabouts and what you are
3 doing at all times.

4 Q Were these views that he held at a particular time, or
5 throughout the time that you knew him?

6 A Well, that comes with the territory of being involved
7 with organized crime. You are always constantly watching,
8 because you're always either under some kind of surveillance
9 or you're always watching that you are not being surveilled.

10 Q You mentioned the Ravenite. You mentioned the fact that
11 you don't know that the defendant ever went there; is that
12 right?

13 A Exactly.

14 Q Did other people go there?

15 A Yes.

16 Q In your view, did all people in organized crime have the
17 same view about surveillance and avoiding it?

18 MS. SHARKEY: Objection as to form.

19 THE COURT: I'll allow it.

20 A Could you repeat that question?

21 Q In your view, did all people in organized crime hold the
22 same view about avoiding surveillance?

23 A I guess they did. But they knew they were being
24 surveilled, because there was a lot of heat on that club, and
25 they continued to go there every Wednesday night.

1 Q You didn't go there?

2 A No, not at all.

3 Q In that regard, in terms of avoiding surveillance, were
4 you and the defendant similar?

5 A Yes.

6 Q Did the defendant ever teach you any lessons?

7 A Yes.

8 Q What?

9 MS. SHARKEY: Objection.

10 THE COURT: I'll allow it.

11 A Charles always taught me to watch what was going on
12 around me, always to come out on top, always taught me to be
13 truthful with him and his brother, with the rest of the guys
14 in the crew, and to be upstanding within the faction of the
15 family.

16 Q Were you and the defendant ever equals?

17 A Not really. I was always under him.

18 Q When was the first time you committed a crime with the
19 defendant?

20 A I dropped off stolen cars to him.

21 MS. SHARKEY: Objection.

22 THE COURT: I'll allow it.

23 Q When?

24 A In the '70s sometime.

25 Q Early '70s?

1 A Yes.

2 THE COURT: Now, you remember what I told you about
3 other crimes, do you, ladies and gentlemen? So, there's going
4 to be testimony about that. The issue for you is going to be
5 was he proven guilty beyond a reasonable doubt with respect to
6 the crimes actually charged.

7 Proceed.

8 BY MR. NORRIS:

9 Q Where did you drop off stolen cars for him?

10 A At the location in East New York, Pine Street, by his
11 mother's old house on Hemlock Street, down the Old Mill
12 somewhere on Pine Street. Usually, in those two locations.

13 Q What's the Old Mill?

14 A The Old Mill is a section of East New York, Brooklyn.

15 Q Have you told the jury about any locations that were in
16 the Old Mill?

17 A Yes.

18 Q Which ones?

19 A The junkyard, the barn, and they had a motor yard, too.

20 Q Where was the motor yard?

21 A On Pine Street, also.

22 Q Where was the junkyard?

23 A On Fountain Avenue.

24 Q What would the defendant do with the cars when you took
25 them to him?

1 A That depended.

2 Q On what?

3 A Depended on if it was an Exacta, he would change the
4 Vehicle Identification Numbers, later on to be sold, or he
5 would chop them up, have somebody chop them up that worked for
6 him, to be parted out and sold as parts.

7 Q Is there a term for what happens when you change the
8 Vehicle Identification Numbers?

9 A Tagging.

10 Q When you stole cars for the defendant, did you do it
11 alone or with other people?

12 A With other people.

13 Q Did you steal cars for other people in addition to the
14 defendant?

15 A Yes.

16 Q Who?

17 A Tom Furei, Tony Denalco, Vinny Petieri, Bobby Schiavo. A
18 lot of different people.

19 Q At the time, were you aware of whether any of these
20 individuals was affiliated with organized crime?

21 A All of them were affiliated with organized crime.

22 Q Who is Bobby Schiavo?

23 A He's a close friend of Charles's and John's.

24 Q Did he have a position in the Gambino Family?

25 A I would say he was an associate.

1 Q Did he have any relationship with any other organized
2 crime family?

3 A Yes. Later on in life, he married Frank Frigenti's
4 daughter, who was an associate of the Genovese Family.

5 Q Did John Carneglia and Frank Frigenti have any
6 relationship?

7 A They were very good friends.

8 Q Did they commit crimes together?

9 A Yes, they did.

10 Q What crimes?

11 MS. SHARKEY: Objection as to relevance.

12 THE COURT: I'll allow it.

13 But first, establish how he found out.

14 Q How did you find out that John Carneglia and Frank
15 Frigenti committed crimes together?

16 A They were on trial together.

17 THE COURT: Strike what he said.

18 Strike the question.

19 Q Showing you what's in evidence as Government's Exhibit
20 2-UU. Do you recognize that?

21 A Yes, I do.

22 Q Who is it?

23 A Frank Frigenti, Bankie.

24 Q That's his nickname?

25 A Yes.

1 Q Again, what organized crime family was he affiliated
2 with?

3 A He was affiliated with the Genovese Family.

4 Q Showing you what's been marked for identification as
5 Government's Exhibit 2-JJJJ. Do you recognize this person?

6 A Bobby Schiavo.

7 Q Is that the person you've just been speaking about?

8 A Yes.

9 MR. NORRIS: I offer it.

10 THE COURT: Admitted.

11 (So marked.)

12 Q Again, what organized crime family was he affiliated
13 with?

14 A He could have been affiliated with both of them.

15 Q Which families?

16 A Gambino and Genovese.

17 Q Aside from stealing cars, what other criminal activities
18 were you engaged in in the early 1970s?

19 A Robbery, drug dealing, murder.

20 Q When you began stealing cars for the defendant, were you
21 with the Bonanno Family yet?

22 A No.

23 (Continued on next page.)

24

25

1 CONTINUING DIRECT EXAMINATION

2 BY MR. NORRIS:

3 Q When did you begin spending significant time with the
4 defendant?

5 A The early '70s, mid-'70s, all the way up until I went to
6 jail in '81.

7 Q In fact, from the beginning, how frequently would you see
8 him?

9 A Three, four times a week.

10 Q Where would you usually see him?

11 A Lindenwood Diner or the junk yard or somewhere in the
12 neighborhood.

13 Q Are you familiar with someone named Andrew Curro?

14 A Yes.

15 Q What was your relationship?

16 A We were very close friends, codefendants on the armored
17 truck hijacking case.

18 Q Did he have a relationship with the defendant as well?

19 A Yes.

20 Q What?

21 A He was Charles' right hand man at one time.

22 Q Was he in his crew?

23 A Yes, along with Billy Loreno and a couple of other kids,
24 Georgie and Tom Tom.

25 Q What was the highest rank he ever obtained in the Gambino

1 family?

2 A Andrew, a very close associate.

3 Q I'm showing you what's been marked for identification as
4 Government Exhibit 2-AAAA. Do you recognize this?

5 A Yes.

6 Q What is it?

7 A A picture of Andrew Curro.

8 MR. NORRIS: Offer it.

9 THE COURT: Admitted.

10 (So marked.)

11 Q Did the three of you -- you, the defendant, Andrew Curro
12 ever spend time together?

13 A Yes.

14 Q Did you ever spend time together at the Barn on Pine
15 Street?

16 A Yes.

17 Q Did the defendant ever confide in you and Andrew about
18 crimes he had committed?

19 A Yes.

20 Q Without saying the method, did the defendant ever tell
21 you that he had expertise in disposing of bodies?

22 MR. SHARKEY: Objection.

23 THE COURT: I'll allow it.

24 A Yes.

25 Q Without saying the method, is your memory clear because

1 of the method the defendant used to dispose of bodies?

2 MR. FARBER: Objection, leading.

3 THE COURT: You may answer.

4 A Yes.

5 Q Again, without saying the method, did the defendant ever
6 tell you that he had in fact disposed of the body of another
7 person?

8 A Yes.

9 Q How many bodies?

10 A A couple.

11 Q More than one?

12 A Yes.

13 Q Did you ever see any of the bodies?

14 A No, I didn't.

15 Q Did you ever see any of the belongings of any of the
16 people he disposed of?

17 A Yes.

18 Q What did you see?

19 A Their jewelry.

20 Q Where did you see it?

21 A Hanging up on the rafters in the Barn.

22 Q How did you know who the jewelry belonged to?

23 A He told me.

24 Q You testified that you dealt drugs during this time. Who
25 did you get it from?

1 A Charles and John.

2 Q What drugs?

3 A Marijuana.

4 Q Were you partners with anyone?

5 A Yes.

6 Q Who?

7 A Andrew Curro.

8 Q When?

9 A In the '70s.

10 Q What part of the 70's?

11 A Mid to late '70s.

12 Q Can you explain to the jury how the marijuana
13 distribution worked?

14 A They would get a shipment in a Winnebago, be brought to
15 the Barn.

16 Q Who is "they"?

17 A Charles and John.

18 Q Continue.

19 A Would be brought to the Barn on Pine Street, The Old
20 Mill, backed down the driveway. The interior would be
21 stripped out, the marijuana would be unloaded out of the
22 Winnebago, put in the Barn, weighed. Each bale would be
23 numbered and then later on to be distributed.

24 Q How would you pay them?

25 A I would be fronted the marijuana and I would pay them as

1 the money came in to me.

2 Q How much would you take at a time?

3 THE COURT: You better have the witness describe
4 what fronted means.

5 MR. NORRIS: Thank you, Judge.

6 Q What does fronted mean?

7 A Credit.

8 Q Does that mean they would give you drugs before you had
9 paid for them?

10 A Yes.

11 Q After you sold them, you would give them money?

12 A Yes.

13 Q How much marijuana would you take at a time, typically?

14 A A couple of hundred pounds, a hundred pounds.

15 Q How long would it take to you sell that much marijuana?

16 A A couple of weeks.

17 Q Who was John Carneglia at the time?

18 A An associate in the Gambino family.

19 Q Whose crew was he in?

20 A John Gotti's.

21 Q Who was Charles Carneglia at the time?

22 A An associate.

23 Q Whose crew was he in?

24 A John Gotti's also.

25 Q Is there another name for John Gotti's crew?

1 A The Bergen crew.

2 Q Why is that?

3 A That's the club they hung out, the Bergen Hunt and Fish
4 Club. That's what they were known as.

5 Q Where is the Bergen Hunt and Fish Club?

6 A 101st Avenue in Ozone Park, Queens.

7 Q Cross streets?

8 A 98th and 99th Streets.

9 Q That's a social club?

10 A Yes, it is.

11 Q What was John Gotti's position in the Gambino family in
12 the late 1970s?

13 A Acting captain.

14 Q Who was he acting for?

15 A Vinny Wagons.

16 Q What's his nickname?

17 A His nickname.

18 Q What's his real name?

19 A Fatico.

20 Q Where was Danny Fatico?

21 A Danny Fatico, Charlie Fatico, the brothers.

22 MR. NORRIS: Strike that.

23 Q Why was John Gotti acting captain?

24 A I think Charlie had heat, Charlie Wagons had heat or
25 Danny had heat. They were often seen by the club. You didn't

1 have easy access to them so John acted in their capacity.

2 Q Is it fair to say in the mid to late 1970s were you on
3 record with the Bonanno family at the time, you were engaged
4 in many profitable criminal activities with the Gambino
5 Family?

6 A Yes.

7 Q You testified at the beginning of your testimony that you
8 were involved in the assault of Carmine Agnello; do you recall
9 that?

10 A Yes.

11 Q When did that occur?

12 A Sometime in the 1970s, late '70s.

13 Q Who else was involved in the assault?

14 A John Carneglia, Charles Carneglia, Skinny Sam, me and
15 Andrew Curro.

16 Q And you?

17 A And myself.

18 Q Who was Skinny Sammy?

19 A He was a close associate of John Carneglia's.

20 Q Know his last name?

21 A No, I don't.

22 Q Explain what happened.

23 A I was home in my apartment in Lindenwood. Someone come
24 and rang my bell. I don't know if it was Andrew who rang the
25 bell. By the time I got downstairs, they weren't standing in

1 front of my house. They were standing by the car.

2 Q What car?

3 A The people I just mentioned, it was a Lincoln Town Car.

4 Q Continue.

5 A The people I just mentioned were sitting in the car,
6 standing outside, some of them. I was told Carmine Agnello
7 just broke the windows on the Lindenwood Diner and he also
8 assaulted John Gotti's daughter, Victoria, was dating her at
9 the time. They needed me to come with them to beat Carmine
10 down.

11 Q What was the term they used?

12 A Slaughter him.

13 Q What did you understand Carmine Agnello to be at the
14 time?

15 A He was an associate of JoJo Corozzo's who was with the
16 Gambino family.

17 Q Later became the consigliere?

18 A Yes.

19 Q Who else was in JoJo's crew?

20 A It was a lot of guys in his crew, Johnny One Arm, Vinny
21 Mad Dog, Johnny Vino, Little Fat Joe. There was a lot of
22 people in his crew.

23 Q Did JoJo have a brother?

24 A Louie Nose -- yes, had three brothers -- four brothers.

25 Q Did JoJo have a brother -- name them.

1 A Nicky Corozzo, Blaise Corozzo and Anthony Corozzo.

2 Q Who was Nicky Corozzo closes to?

3 A Close to?

4 Q Yes.

5 A Lenny DiMaria.

6 Q Who was he?

7 A He was -- at the time?

8 Q Yes.

9 A He was a made member in the family.

10 Q What was Nicky Corozzo at the time?

11 A Made member in the family.

12 Q These people, all that you've been describing, all in one
13 crew at the time?

14 A Yes.

15 Q Is that part of John Gotti's crew?

16 A No.

17 Q Different crew?

18 A Yes.

19 Q I'm showing you what's in evidence as Government
20 Exhibit 2-G. Who is that?

21 A Nicky Corozzo.

22 Q What's the highest status he obtained in the Gambino
23 family?

24 A He was captain and then later on became to be one of the
25 people on the council that advised Junior Gotti when his

1 father went to prison.

2 Q When was that?

3 A 1990.

4 Q I'm showing you what's in evidence as Government
5 Exhibit 2-K. Who is that?

6 A Lenny DiMaria.

7 Q What was the highest status he obtained in the Gambino
8 Family?

9 A Captain.

10 Q I'm showing you what's in evidence as Government
11 Exhibit 2-DD. Who is that?

12 A Carmine Agnello, John Gotti's son-in-law.

13 Q Nickname?

14 A Bull.

15 Q Highest status he obtained in the Gambino family?

16 A Made member, then I think acting captain.

17 Q What was Carmine Agnello's relationship with John Gotti?

18 A He was his son-in-law.

19 Q Who did he marry?

20 A Victoria.

21 Q Why did they come to you -- strike that.

22 Did you have an understanding why they came to you to
23 become an assistant in consulting Carmine Agnello?

24 A I was making money with them. I was about business. I
25 was known to get things done the correct way. I would really

1 fear nothing and I was a tough kid.

2 Q What do you mean get things done the correct way?

3 A I wouldn't let nothing get in my way to do what I had to
4 do to satisfy my obligations.

5 Q Did you ever commit assaults with them before?

6 A Yes.

7 Q With who?

8 A With who did I commit an assault? Charles.

9 Q We'll come back to that.

10 Can you explain again to the jury, very briefly,
11 what were the reasons they explained to you why they wanted to
12 assault, slaughter, in your words, Carmine Agnello?

13 A Because he was very disrespectful. He broke the windows
14 on the diner. I mean do you really want me to say the words
15 that were said there?

16 MR. NORRIS: Your Honor?

17 THE COURT: You're questioning him. Ask him if you
18 wish.

19 Q Tell the words they said to you.

20 A Carmine stated he was going to fuck John Carneglia in his
21 ass, very derogatory. He hit Victoria Gotti and he had a
22 fight with Andrew, a couple of his friends, and beat Andrew up
23 at a street fair days before this.

24 Q There were a variety of reasons, fair to say?

25 A Excuse me?

1 Q There were a number of reasons for the assault, fair to
2 say?

3 A Yes.

4 Q You said Agnello went to the diner to send John Carneglia
5 a message; is that right?

6 A Yes.

7 Q That was the Lindenwood Diner?

8 A Yes.

9 Q Do you have an understanding why he went there to send
10 John Carneglia a message?

11 A Because he knew we all hung out there and that diner was
12 with Johnny Carneglia.

13 Q What do you mean by with Johnny Carneglia?

14 A The owner was under the protection of Johnny Carneglia
15 and his brother Charles.

16 Q Did the defendant and his brother have an ownership stake
17 in the diner?

18 A No.

19 Q Where did you go after you were woken up that morning?

20 A To the Bergen Hunt and Fish Club.

21 Q That's the social club on 101st Avenue?

22 A Yes.

23 Q That was John Gotti's club?

24 A Yes.

25 Q Who was there when you arrived?

1 A John Gotti, Angelo Ruggiero, Gene Gotti. There was a
2 couple of other people there.

3 Q Again, Angelo Ruggiero, that's Angelo Ruggerio, Senior?

4 A Yes.

5 Q Quack Quack?

6 A Yes.

7 Q Do you know who was an acting captain at the time?

8 A Yes.

9 Q What was Angelo?

10 A Soldier, made member.

11 Q What happened at the club?

12 A We were instructed to go slaughter Carmine, go find him
13 right now, slaughter him and don't kill him.

14 Q You mentioned Carmine --

15 THE COURT: Excuse me, who said what?

16 Q Who said what specifically?

17 A John Gotti.

18 Q What did he say?

19 A He said "Go find Carmine and slaughter him. Don't kill
20 him."

21 Q You mentioned Carmine was in a different crew; is that
22 right?

23 A Yes.

24 Q What was the relationship between the other crew and John
25 Gotti's?

1 A Not good, tension, problems all the time, beefs between
2 them.

3 Q You were in the Bonanno family, associated with the
4 Bonanno Family at the time the assault took place, right?

5 A Yes.

6 Q Why did you commit crimes for John Gotti?

7 A Because he was a friend and John and Charles asked me to.

8 Q Would that get you in trouble with your captain in the
9 Bonanno Family?

10 A No, they were close, Joe Massino. They would have that
11 covered. There was no problem there.

12 Q What did you think of John Gotti at the time?

13 MR. FARBER: Objection.

14 THE COURT: I'll allow it.

15 A I thought John Gotti was the best thing walking on the
16 planet.

17 Q What did you do after John Gotti told you and the others
18 to go slaughter Carmine Agnello?

19 A What did we do?

20 Q Yes.

21 A Looked for Carmine, went from the club to his junk yard
22 in Jamaica, Queens on Liberty Avenue, Jamaica Auto Salvage.
23 He wasn't there.

24 Q What time of day was it at this point?

25 A Early morning.

1 Q Who was driving?

2 A Me.

3 Q Were you armed?

4 A Yes.

5 Q With what?

6 A I had a .44 Magnum revolver, blackjack in the back seat.

7 On the floor was a bunch of axe handles.

8 Q Do you know if anybody else in the car was armed?

9 A Yes.

10 Q Who?

11 A Johnny Carneglia.

12 Q Anyone else had a weapon of some sort? Do you remember if
13 the defendant had a weapon?

14 A Yes.

15 Q What?

16 A Blackjack.

17 Q What's a blackjack?

18 A A blackjack is a lead weight with a spring attached to it
19 wrapped in leather so it swings back and forth easily in your
20 hand.

21 Q What do you do with it?

22 A You beat people down with it.

23 Q Where was the defendant's blackjack?

24 A In his waistband.

25 Q Have you ever known the defendant to carry a blackjack

1 prior to that point?

2 A All the time.

3 Q Did he ever carry any other weapons?

4 A Yes.

5 Q What?

6 A Usually knives and a gun, a 9 millimeter.

7 Q How would he carry them?

8 A He would carry the stiletto in his front right pocket or
9 back pocket. He would carry the .9 millimeter in his back
10 waistband.

11 Q Where would he carry the blackjack?

12 A In his waistband in the front.

13 Q What's a stiletto?

14 A A stiletto is a knife you push a button, Italian made,
15 onyx. The blade opens like this. It opens. There's a
16 variety of different sizes. He had every size.

17 Q After you went to Carmine Agnello's junk yard, didn't
18 find him --

19 THE COURT: Indicate the length he showed.

20 Q Can you please indicate the length that you just showed?

21 A The blade was maybe six to eight inches.

22 Q You mentioned the defendant had a variety?

23 A There's variety of different sizes, four inch blade, six
24 to eight, bigger than that, too, ten inch.

25 Q After you left the junk yard, where did you go next?

1 A I went west on Liberty Avenue towards the Van Wyck
2 Expressway.

3 Q Everyone is in the car at this point?

4 A Yes.

5 Q Did you come upon Carmine Agnello?

6 A Yes, I did.

7 Q Where?

8 A He was exiting off the southbound Van Wyck Expressway
9 making a left turn on to Liberty Avenue.

10 Q What happened?

11 A He came through the lights. As he came through the
12 lights, approached, we started approaching each other. He's
13 coming -- he's going east, we're going west. I swerved into
14 his lane, had a head-on collision with his tow truck. There
15 was a car on the back of it. As soon as I did that, Carmine
16 jumped out of the tow truck and proceeded running north across
17 Liberty Avenue towards the school and the park. He was shot
18 in the buttocks. He went down on the floor. We all ran up on
19 him and beat him down with the axe handles.

20 Q Do you know who shot him?

21 A It was, I think, Johnny Carneglia. I'm not sure who shot
22 him.

23 Q Did anyone else try to shoot him?

24 A I did.

25 Q After you beat him, what happened?

1 A We left him laying on the ground and left.

2 Q Did anyone else attempt to shoot him again?

3 A Attempt to shoot him again? I attempted to shoot him. I
4 was told not to. You can't do that.

5 Q Did you point your gun at him?

6 A Yes, I did.

7 Q Who told you to shoot him?

8 A Johnny Canig.

9 Q How did he tell you?

10 A He pointed a gun at me, told me "Don't do that."

11 Q Where did you go after that?

12 A Back to the Bergen Hunt and Fish Club.

13 Q Who was there?

14 A The people that I mentioned before, John Gotti, Angelo
15 Ruggiero and Gene Gotti.

16 Q Did you go inside at that time?

17 A No.

18 Q Was that the end of the problem?

19 A No.

20 Q What happened next?

21 A Carmine went to the hospital. There was a big uproar in
22 the neighbor about him getting slaughtered like that. His
23 uncle came down to the diner, spoke with Charles for a little
24 while. I wasn't there at the time.

25 Q I'll stop you there. Who was Carmine's uncle?

1 A Joe Spinelli.

2 Q Are you sure of his first name?

3 A Not absolutely, no.

4 Q How did you find out what happened at the diner when he
5 came to talk to the defendant?

6 A I found out from Joey Calvacante and Charles.

7 Q The defendant?

8 A Yes.

9 Q What did the defendant tell you happened at the diner?

10 MR. SHARKEY: Objection.

11 THE COURT: I'll allow it.

12 A After I found out Andrew was shot already from Joe
13 Calvacante, Joe Calvacante explained to me that Andrew was
14 shot. I went to the hospital, seen Andrew. Nobody told me
15 who shot Andrew. I made a statement as to we got to do
16 something to the person that shot Andrew, unaware that Charles
17 shot Andrew.

18 Q Let me stop you there. What was the first thing -- who
19 did you first hear what happened at the diner from?

20 A Joe Calvacante.

21 Q I'm showing you what's in evidence as Government
22 Exhibit 2 J J. Who is that?

23 A Joe Calvacante, a member of Charles' crew, an associate
24 of the Gambino family.

25 Q Was he close with anyone else in the defendant's crew?

1 A Andrew Curro.

2 Q What did Joe Calvacante tell you happened?

3 A He told me that Carmine's uncle came down to straighten
4 out the beef for Carmine.

5 Q What happened when he tried to straighten out the beef?

6 A Joey didn't tell me what happened.

7 Q Did the defendant later tell you what happened?

8 A Yes.

9 Q What did he tell you?

10 MR. SHARKEY: Objection.

11 THE COURT: I'll allow it.

12 A He told me that he was talking to Carmine's uncle on the
13 steps of the diner. Andrew was highly upset about this guy
14 coming down to the diner. Andrew got disrespectful and
15 Charles shot Andrew in the shin with a .9 millimeter.

16 Q Did the defendant tell you where he was when he shot
17 Andrew?

18 A On the back steps of the diner.

19 Q Shot his right-hand man in the shin?

20 A Yes.

21 Q How did you react when you were told?

22 A How did I react? I had no reaction. He was in control.
23 I was just sorry I said we got to do something to the person
24 that shot Andrew. I didn't know it was Charles at the time.

25 Q Let me make sure this is clear. You first heard about

1 the shooting from Joe Calvacante, right?

2 A Right. He didn't tell me who shot him.

3 Q Later the defendant told you that he had shot Andrew,
4 correct?

5 A Yes.

6 Q When that happened, did it ever come back to you that the
7 defendant had any reaction to finding out that you wanted to
8 retaliate against Andrew's shooter?

9 A Yes.

10 Q Did that cause a problem between you and the defendant?

11 A Yes, Joe Calvacante and Andrew went back to the defendant
12 and told him --

13 MR. SHARKEY: Objection.

14 Q How do you know what happened?

15 A How do I know what happened?

16 Q Yes.

17 A I was pulled up about it, like I was looking to do
18 something to Charles.

19 Q Who told you the problem was resolved?

20 A There was no problem resolved. I had to go see John.
21 John told me --

22 MR. SHARKEY: Objection.

23 THE COURT: John who? Find out who, please.

24 Overruled.

25 THE WITNESS: John Carneglia.

1 MR. SHARKEY: Objection.

2 THE COURT: I'll allow it.

3 A He told me you're looking to do something to my brother.
4 I explained the situation. I said no, I wasn't looking to do
5 anything to your brother. I was looking to do something to
6 the guy that shot Andrew before I knew it was your brother.
7 It got all blown out of proportion because Joe Calvacante and
8 Andrew went and made it that I was looking to do something to
9 Charles.

10 Q Was the problem between you and the defendant later
11 resolved?

12 A Yes, his brother resolved it.

13 Q You mentioned John Gotti's daughter, Victoria. Did he
14 have any other children?

15 A Yes.

16 Q Who?

17 A He had Angel, Victoria, John, Franky Boy and Peter.

18 Q Who was his youngest son?

19 A Peter.

20 Q Who was the next youngest son?

21 A Franky.

22 Q What happened to Franky?

23 A He was killed in an automobile situation.

24 Q What do you mean by situation?

25 A He was riding a moped. He sped out between two parked

1 cars in Howard Beach, was run over.

2 Q When?

3 A In either the late 70's or early 1980.

4 Q Do you know who was driving the car that hit him?

5 A Yes.

6 Q Who?

7 A John Favara.

8 Q How did you find that out?

9 A Through the crew.

10 Q Who specifically?

11 A Andrew Curro, Charles.

12 Q By Charles you mean the defendant?

13 A Yes.

14 Q Do you know how old Franky was at the time he was killed?

15 A He was a young boy.

16 Q Was there a wake held after he was killed?

17 A Yes.

18 Q Did you go?

19 A Yes, I did.

20 Q Where was it?

21 A Steven Oto's funeral parlor, Conduit and East New York in
22 Brooklyn.

23 Q Who attended the wake?

24 A The whole Gambino family, everybody else that was a close
25 associate or friend of John Gotti's and other families, people

1 from the neighborhood.

2 Q Did anything happen to John Favara after the funeral?

3 A Yes.

4 Q What?

5 MR. SHARKEY: Objection.

6 THE COURT: I'll allow it.

7 A He disappeared.

8 Q Did you have any conversations with anyone in the
9 defendant's crew about what happened to him?

10 A Yes.

11 Q Who?

12 A Andrew Curro.

13 Q Did you have discussions with Andrew Curro what happened
14 to Favara before -- strike it.

15 Did you have discussions with Andrew Curro about the
16 killing of Franky before Favara disappeared?

17 MR. SHARKEY: Objection.

18 THE COURT: I'll allow it.

19 A Just that Franky Boy was run over by a neighbor in Howard
20 Beach and John wanted hunk.

21 Q What does that mean?

22 A He wanted revenge.

23 Q How did the discussions you had with Andrew Curro arise?

24 A It was a big topic, you know. The guy's son got killed.

25 It was a big situation. It wasn't nothing that was taken

1 lightly.

2 Q Was there an issue in the family about whether John Gotti
3 would be given permission, in your words, to get hunk?

4 A He was told not to retaliate.

5 Q By who?

6 A By Neil.

7 Q Who is Neil?

8 A Neil Dellacroce was the underboss at the time.

9 Q Why did he deny him permission to kill John Favara?

10 MR. SHARKEY: Objection.

11 THE COURT: How did he find out?

12 THE WITNESS: Through the crew, through Andrew
13 Curro, through Joe Calvacante.

14 MR. SHARKEY: Objection.

15 THE COURT: I'll allow it.

16 Q Did you also have discussions with Andrew Curro about
17 what had happened after John Favara disappeared?

18 A Yes.

19 Q How long after he disappeared?

20 A Shortly thereafter.

21 Q The nature of those discussions were serious?

22 A Yes, very serious.

23 Q Why?

24 MR. FARBER: Objection.

25 THE COURT: I don't want anything further with

1 respect to what the witness was told by this person.

2 MR. NORRIS: I have a few more questions about the
3 resolution in the family about the question of the permission
4 that John Gotti was seeking with respect to killing John
5 Favara.

6 THE COURT: No. If the defendant said anything,
7 I'll allow that, but not this person.

8 Q You testified that you attended Franky Gotti's wake. Did
9 you attend wakes regularly?

10 A Did I attend wakes regularly?

11 Q Yes.

12 A No.

13 Q Was it important in organized crime to attend wakes?

14 A Yes, when you could.

15 Q Why didn't you attend them regularly?

16 A Depended if I was on parole, what the situation was, if I
17 knew about it, if I didn't know about it.

18 Q Why would you avoid attending a wake?

19 A If I was on parole, it would be the heat factor of being
20 seen at a wake, getting filmed by the FBI, whoever was
21 surveilling the wake.

22 Q Did you ever attend any wakes for other members of the
23 Gotti family?

24 A Yes.

25 Q Who?

1 A John Gotti's father, John Gotti himself.

2 Q John Gotti's father is John Gotti, Senior's father?

3 A Yes.

4 Q John Gotti, Senior himself?

5 A Yes.

6 Q You testified before that you were arrested in 1981 for
7 hijacking armored trucks, correct?

8 A Yes.

9 Q How many armored trucks did you hijack?

10 A Two.

11 Q Did you do it alone or with other people?

12 A No, I did it with other people.

13 Q Who?

14 A The first one was with Andrew Curro, Joe Calvacante and
15 Frank Boccia.

16 The second one was with Andrew Curro, Joe Calvacante
17 and my brother Steven.

18 Q Brother Steven older or younger than you?

19 A Younger.

20 Q What was his affiliation with organized crime?

21 A My brother was a very close associate of mine.

22 Q Whose idea were the hijackings?

23 A Mine and Andrew's.

24 Q When did the first one take place?

25 A July of 1980.

1 Q When did the second one take place?

2 A December of 1980.

3 Q You testified before you got over a million dollars from
4 the two robberies?

5 A Yes.

6 Q When were you arrested?

7 A March 3rd of '81.

8 Q Where were you prosecuted?

9 A Eastern District of New York.

10 Q What was the outcome of your case?

11 A I was convicted at trial.

12 Q What were you sentenced to?

13 A 12 years.

14 Q Did anything happen to your coconspirators?

15 A They were all out in the street while I was in jail.

16 Later on they were riding around partying in a limousine and

17 Joe Calvacante hired his friend's father to drive them around

18 who was wired up. They talked to this guy about everybody's

19 business, was all over the tape. They were later arrested and

20 they pled guilty to the charges.

21 Q Your brother was arrested?

22 A No.

23 Q Where were Andrew Curro and Calvacante prosecuted?

24 A Right here in the Eastern District.

25 Q What happened to their cases?

1 MR. SHARKEY: Objection, relevance.

2 THE COURT: Sustained.

3 MR. NORRIS: If I may, a couple of more questions?

4 THE COURT: You may, go ahead.

5 MR. NORRIS: Relevance.

6 Q Did they ultimately go to prison?

7 A Yes.

8 Q Andrew Curro and Joey Calvacante?

9 A Yes, and Frank Boccia.

10 Q What year?

11 A 1982.

12 Q Do you know where Andrew Curro and Joey Calvacante were
13 designated?

14 A Lewisberg.

15 Q Was Curro charged later with other crimes?

16 A Yes.

17 MR. SHARKEY: Objection.

18 THE COURT: I'll allow it.

19 MR. NORRIS: Very brief.

20 Q What crimes?

21 A Murders.

22 Q Convicted?

23 A Yes.

24 Q What was his sentence?

25 A He had 16 years with the feds, 12 years for the armored

1 truck robberies, four years for a gun with the feds and 25 to
2 life running consecutive from the 16 years with the federal
3 government.

4 Q To your knowledge is he still in prison?

5 A To my knowledge he's still in jail.

6 MR. NORRIS: Might I have one moment, your Honor?

7 Q You engaged in a lot of criminal activity in your life?

8 A Yes, a very large amount of criminal activity.

9 Q Staggering amount?

10 A Staggering amount, however you want to put it. I've been
11 a career criminal my whole life.

12 Q What types of crimes?

13 A Murder, drug dealing, armored car robberies, armed
14 robberies, car theft, assaults.

15 Q Arson?

16 A Yes.

17 Q Drug use?

18 A Drug use?

19 Q Yes.

20 A Plenty.

21 Q Arson. What did you burn to commit arson?

22 A I burned a lot of cars. I burned cars that were used in
23 crimes. I did things like that.

24 Q How many cars did you steal in your lifetime?

25 A How many?

1 Q Yes.

2 A Hundreds.

3 Q You stole a car that was to be used in a murder
4 conspiracy, didn't you?

5 A I stole a couple of cars that were used in murder
6 conspiracies.

7 Q You committed arson of a car that had been used in a
8 murder conspiracy, correct?

9 A Yes, I did.

10 Q You're a drug dealer?

11 A Yes.

12 Q What type of drugs?

13 A Heroin, marijuana, cocaine, pills.

14 Q What drugs did you use?

15 A I used heroin, marijuana, cocaine, pills.

16 Q How much heroin did you sell in terms of total quantity?

17 A Total quantity?

18 Q Yes.

19 A A couple of kilos.

20 Q When?

21 A In the late '70s/early '80s, all the way up to '81 when I
22 went to prison.

23 Q When did you start using heroin?

24 A I would say around 1995 after I was run over and put in
25 the hospital.

1 Q Was it an accident?

2 A Yes.

3 Q What happened?

4 A My girlfriend ran me over by accident.

5 Q Were you given prescription pain killers after the
6 accident?

7 A Yes.

8 Q You eventually started abusing them?

9 A Yes.

10 Q Did you become addicted?

11 A Yes, I did.

12 Q Then you started using heroin?

13 A Yes.

14 Q You got addicted to that?

15 A Yes, I did.

16 Q Were you ever able to stop?

17 A Yes.

18 Q When?

19 A Around 1997 I just got tired of it, stopped.

20 Q You said you sold cocaine; is that right?

21 A Yes.

22 Q How much cocaine did you sell in terms of total quantity?

23 A About five kilos.

24 Q What period of time?

25 A The mid to late '90s.

1 Q You used cocaine as well?

2 A Yes.

3 Q When?

4 A 70s, the '90s.

5 Q Become addicted?

6 A No.

7 Q Ever use crack?

8 A No.

9 Q Also sold marijuana?

10 A Yes.

11 Q How much marijuana did you sell in terms of total
12 quantity over the course of your criminal career?

13 A Thousands of pounds.

14 Q Literally tons?

15 A A lot of marijuana.

16 Q Over what time period?

17 A From the '70s all the way to the day I came to jail,
18 except for when I was doing my federal prison sentence.

19 Q From the '70s until 2004?

20 A Yes, except when I was in prison.

21 Q You used marijuana, too, right?

22 A Yes.

23 Q Even while you're in federal prison?

24 A Yes.

25 Q In the 1980's or more recently?

1 A No, in the '80s.

2 Q What period of time have you used marijuana?

3 A What period of time?

4 Q Yes.

5 A All through the '70s, the '80s, '90s all the way until I
6 came to jail.

7 Q How often?

8 A How often? A couple of times a week.

9 Q How much money would you estimate you made from all of
10 your drug dealing?

11 A You know, I was asked that question a lot of times. To
12 put a number on the money I made is really hard to do.

13 Q Hundreds of thousands?

14 A No, millions.

15 Q Millions?

16 A Millions of dollars.

17 Q Did you ever have a hydroponic marijuana business?

18 A Yes, very lucrative, very big.

19 Q A business you had when you were arrested?

20 THE COURT: Explain it generally.

21 Q What's a hydroponic marijuana business?

22 A I used to grow large amounts of hydroponic marijuana in
23 warehouses.

24 Q Where were the warehouses?

25 A Brooklyn, New York.

1 Q Explain what hydroponic means.

2 A Hydroponic is a system where you don't use soil. You use
3 rock wool and liquid nutrients to grow the marijuana. It's
4 under artificial light. You use air-conditioning. You create
5 the best climate for the marijuana to grow indoors. It's like
6 Epcot Center.

7 Q Is that the most lucrative time you ever engaged in?

8 A Yes.

9 Q Armed robberies, what types of places did you rob?

10 A Drug dealers. I robbed a house that had about a million
11 dollars in gold in it, armored trucks.

12 Q Stores?

13 A Stores, furriers.

14 Q What's a furrier?

15 A Hijacked trucks. What's a furrier?

16 Q Yes.

17 A A furrier is a place in midtown Manhattan in the 30s that
18 gets mink pellets and sable pellets by the truckload. They
19 put them in a store where they're graded and sorted. I used
20 to go in and take the whole store and empty it out, fill the
21 truck up, drive away with their inventory.

22 Q Was anyone hurt during any of your armed robberies?

23 A Never.

24 Q Were you arrested and prosecuted for those robberies?

25 A No, just the armored truck robberies.

1 Q You mentioned murders. How many premeditated murders did
2 you commit?

3 A Two.

4 Q Who did you murder?

5 A Setimo Favia and John Gebert.

6 Q When was Setimo Favia murdered?

7 A Sometime in the late 70's.

8 Q Is that the time were you associated with the Bonanno
9 family?

10 A Yes.

11 Q Who wants Favia killed?

12 A Frank Bonomo, Senior.

13 Q The captain?

14 A Yes.

15 Q Why did he want him killed?

16 A Because he cursed him out in Italian.

17 Q Favia cursed out Bonomo?

18 A Yes, got abusive.

19 Q Bonomo wants him dead?

20 A Yes.

21 Q What's the reason you knew of?

22 A That's the reason I was told.

23 Q Did Bonanno ask you to do it?

24 A Yes.

25 Q Was anyone else involved?

1 A Yes.

2 Q Who?

3 A Patsy Andriano, Senior, Frank Boccia, Geeky, John
4 Santora.

5 Q Geeky is Frank Boccia's nickname?

6 A Yes.

7 Q You're close with him?

8 A Yes, very close.

9 Q Is he alive or dead?

10 A He's dead.

11 Q When did he die?

12 A He died in the late '80s. He was killed.

13 Q Is he associated with organized crime?

14 A Yes.

15 Q What family?

16 A He was originally with the Bonanno family and then he was
17 switched to the Gambino family when he married Fat Andy's
18 daughter.

19 Q Who is Fat Andy?

20 A A captain in the Gambino family. He's now deceased.

21 Q What's his full name?

22 A Andrew Ruggiano.

23 Q Who is Patsy Andriano?

24 A Was an associate of the Bonanno Family who was later
25 killed in 1982.

- 1 Q Also a friend of yours?
- 2 A Very close friend at one time.
- 3 Q Did he have any sons?
- 4 A Yes.
- 5 Q What were his son's name?
- 6 A Patsy Andriano, Junior.
- 7 Q Did you later commit crimes with him?
- 8 A Yes.
- 9 Q What was your role in killing Favia?
- 10 A I stole and drove the getaway car.
- 11 Q What was Boccia's role?
- 12 A He shot him.
- 13 Q What did you do with the body?
- 14 A Left it right there in the street.
- 15 Q Second individual you killed was John Gebert?
- 16 A Yes.
- 17 Q When did you kill Gebert?
- 18 A 1997.
- 19 Q What family were you associated with at the time?
- 20 A Gambino.
- 21 Q Who wanted John Gebert murdered?
- 22 A Johnny Alite.
- 23 Q Who is that?
- 24 A Very close associate with the Gambino family who reported
- 25 to John Junior.

1 Q Who is John Junior?

2 A John Gotti, Junior.

3 Q Who did he later report to?

4 A Ronnie One Arm, Charles.

5 Q The defendant?

6 A Yes.

7 Q What's Ronnie One Arm's full name?

8 A Ronald Churucio.

9 Q Whose crew was Johnny Alite in in '97?

10 A In '97? It's kind of hard to say. I think he was either
11 reporting to Ronnie or Charles.

12 Q Did Alite ask you to get involved in the murder?

13 A Yes.

14 Q Why did he want Gebert dead?

15 A He asked me to get involved in the murder way back in
16 '88.

17 Q Why did he want him dead in 1997?

18 A Because John Gebert was a fearful force in the
19 neighborhood who was chasing made men around with a machine
20 gun, shooting up their bars. He was controlling drug dealing
21 on Jamaica Avenue and he was a pretty treacherous fellow.

22 Q John Alite also was a drug dealer on Jamaica Avenue?

23 A Yes.

24 Q You just mentioned a number of reasons why Alite wanted
25 him dead, right?

1 A I didn't know all the reasons, but those are some of the
2 reasons.

3 Q Is it common for there to be a number of reasons behind a
4 murder in organized crime?

5 A Yes.

6 MR. SHARKEY: Objection.

7 THE COURT: I'll allow it.

8 Q Why did you agree to do it?

9 A It would have furthered my status in the family.

10 Q How so?

11 A It's a good feather in my cap to take care of something
12 like that, that everybody feared, get it out of the way. This
13 way, that factor wasn't there any longer.

14 Q Did you have any beef with John Gebert?

15 A None.

16 Q What was your role in killing him?

17 A I organized and planned it, stole the cars.

18 Q Why did Alite need your help?

19 A He seemed not to be able to get it done. He was going to
20 jail.

21 Q Were you the shooter?

22 A It was pretty much the situation was that this was an
23 ongoing thing from the '80s and now it was 1997. The guy went
24 to jail. They seemed to be missing each other.

25 Q Alite asked you to get involved because he was going to

1 jail, he couldn't run the team for the murder, is that fair to
2 say?

3 A I would say that.

4 Q Were you the shooter?

5 A No.

6 Q Who else was involved in the killing?

7 A Myself, my brother Steven, Johnny Burke, Patsy Andriano,
8 Mike Malone and Dave D'Arpino.

9 Q Who were they?

10 A All part of Johnny Alite's crew.

11 Q What was their status in the family?

12 A Associates.

13 Q Did Alite have a crew even though he was an associate?

14 A Yes.

15 Q Same as the defendant before he got made?

16 A Yes.

17 Q Why did they both have crews?

18 A Excuse me?

19 Q Why did they both have crews as associates?

20 A They were strong enough to do that.

21 Q Why was Alite strong?

22 A Alite was a treacherous fellow.

23 Q Make a lot of money?

24 A Made a lot of money, got things done.

25 Q Who shot Gebert?

1 A Who shot him? David D'Arpino.

2 Q Anyone else?

3 A Patsy Andriano.

4 Q Patsy Andriano you killed Favia with --

5 A No.

6 Q What's his relationship with him?

7 A Favia.

8 Q What's Patsy Andriano relationship to the guy you killed
9 Favia with?

10 A His son.

11 Q Where did they kill Gebert?

12 A In Franky and Johnny's bar on Jamaica Avenue and 89th
13 Street.

14 Q Where were you at the time?

15 A I was driving down 88th Street going south, I believe.

16 Q Who were you with?

17 A My brother Steven.

18 Q Alite was in jail at the time?

19 A Yes, he just went to jail a day before or two days before
20 or a week before.

21 Q Were you in charge of the murder in his absence; is that
22 correct?

23 A Yes.

24 Q I'm showing you what's in evidence as Government
25 Exhibit 2-E E. Who is that?

1 A Johnny Alite.

2 Q The highest status he obtained in the Gambino family?

3 A Associate.

4 Q Government Exhibit 2-0, who is that?

5 A John Gotti, Junior.

6 Q What's he also known as?

7 A Junior.

8 Q Highest status he obtained in the family?

9 A Acting boss.

10 Q Exhibit 2-Q Q Q, who is that?

11 A Ronnie One Arm.

12 Q What's his real name?

13 A Ronald Charucio.

14 Q What's the highest status he obtained in the family?

15 A Captain.

16 Q I'm showing you what's in evidence as Government

17 Exhibit 2-U U U. Who is that?

18 A My brother Steven.

19 Q The highest status he obtained in the family?

20 A Associate.

21 Q I'm showing you what's been marked for identification as

22 Government Exhibit 2-V V V. Do you recognize this?

23 A Patsy Andriano, Junior.

24 MR. NORRIS: Offer it.

25 THE COURT: Admitted.

1 (So marked.)

2 Q The highest status he obtained in the family?

3 A Associate.

4 Q I'm showing you what's been marked for identification as
5 Government Exhibit 2-B BB B.

6 THE COURT: Is that three or four?

7 MR. NORRIS: Quadruple B, as in boy.

8 THE COURT: V?

9 MR. NORRIS: B, as in boy, your Honor.

10 THE COURT: What happened with Z -- was there a
11 "Z" there?

12 MR. NORRIS: B as in brother.

13 THE COURT: How many B's?

14 MR. NORRIS: Four.

15 MR. BURLINGAME: Patsy Andriano was, 2-V V V.

16 THE COURT: As in Volkswagen. This one?

17 MR. NORRIS: 2-BBBB, as in brother.

18 THE COURT: Triple?

19 MR. NORRIS: Quadruple.

20 THE COURT: Quadruple B. Admitted.

21 (So marked.)

22 Q Can you say his name again?

23 A Dave D'Arpino.

24 Q What's the highest status he obtained in the family?

25 A Associate.

1 Q I'm showing you what's been marked for identification as
2 2-FFFF, as in Frank. Who is that?

3 A Mike Malone.

4 MR. NORRIS: We offer it.

5 THE COURT: Admitted.

6 (So marked.)

7 Q The highest status he obtained in the family?

8 A Associate.

9 THE COURT: Did you say Frank --

10 THE WITNESS: Michael.

11 THE COURT: Thank you.

12 Q You mentioned you were involved in a number of assaults,
13 correct?

14 A Yes.

15 Q Can you estimate how many?

16 A Estimate how many?

17 Q How many people did you assault during the course of your
18 life?

19 A A lot of people.

20 Q Did you ever assault anyone with the defendant?

21 A Yes.

22 Q You mentioned Carmine Agnello. Anyone else?

23 A Albert Gelb.

24 Q Did you ever stab anyone?

25 A Yes.

1 Q How many times?

2 A Once.

3 Q That person die?

4 A No.

5 Q Who did you stab?

6 A Franky Pepitone.

7 Q Who is he?

8 A He was a drug dealer from Jamaica Avenue.

9 Q Were you involved in a shooting where a person didn't
10 die?

11 A They didn't die?

12 Q Yes.

13 A Yes.

14 Q How many times?

15 A Once.

16 Q Were you involved in a pistol whipping of a person where
17 that person didn't die?

18 A Yes.

19 Q How many times?

20 A Once.

21 Q Did any other assaults you commit result in someone
22 dying?

23 A No, not to my knowledge, no.

24 Q Did you ever assault someone named Mitchel Manfredi?

25 A Yes.

1 Q Did he die?

2 A Yes.

3 Q When was that assault?

4 A That was in the '70s some time.

5 Q Was anyone else involved in his death?

6 A Yes.

7 Q Who?

8 A Frank Boccia, John Santora and Patsy Andriano.

9 Q The same people you killed Favia with?

10 A Yes.

11 Q What led up to his death?

12 A He was another Johnny Gebert but an earlier version. He
13 was running around Jamaica Avenue like a madman, threatening
14 people, shooting people, shooting at people. He needed to be
15 dealt with. They tried to straighten it out by talking to
16 him. He didn't want to listen. He came to meet them in
17 Lindenwood. They were talking, trying to straighten it out.

18 Up the block from my house, what happened next, was
19 the kid tried to pull a gun out because he didn't like the
20 decision that was made, tried to shoot them. They jumped on
21 him. I was coming out of my house. We all jumped on him,
22 took him down, killed him.

23 Q What happened to the body?

24 A He was thrown in the back of a car and set on fire.

25 Q You helped?

1 A Yes.

2 Q Did you also participate in a murder for hire scheme?

3 A Yes.

4 Q Did you know the individual's name you were supposed to
5 kill?

6 A No.

7 Q Who wanted him dead?

8 A Joseph Gessario, Junior and Junior.

9 Q Who were they?

10 A They were two people from Wantagh, Long Island. The son
11 Joseph was an associate of the Colombo crime family.

12 Q Why did he want this person dead?

13 A Because he beat his father.

14 Q How much money were you going to get for the murder?

15 A 300 to 350,000.

16 Q 300 to \$350,000?

17 A Yes.

18 Q Did you end up going through with it?

19 A No.

20 Q Why not?

21 A Because the guy's wife came out of the house and as we
22 were getting ready to get him, he was on the floor, she walked
23 out the door and we stopped.

24 Q What do you mean on the floor?

25 A We had him down on the ground.

1 Q Ready to kill him?

2 A Shoot him.

3 Q Getting ready to shoot him?

4 A Yes.

5 Q His wife came out. What happened?

6 A We left.

7 Q Did you ever agree to kill another person relating to an
8 act of infidelity?

9 A Yes.

10 Q How many times?

11 A Once.

12 Q Who?

13 A Angelo Mongaviglio from Sapienza Bakery.

14 Q Is that the correct last name?

15 A I'm not sure.

16 A It may have been a bagel store, Cross Bay Boulevard and
17 101st Avenue.

18 Q Was he affiliated with organized crime?

19 A Yes.

20 Q Who asked you to kill him?

21 A Vinny Gotti, Angelo Ruggiero, Junior, Micky Boy Paradiso
22 and Richie Gotti.

23 Q Was anyone else involved in the plot?

24 A Yes.

25 Q Who?

1 A Kid by the name of Robert that was straightened out with
2 Richie Gotti.

3 Q What does it mean to be straightened out?

4 A A made member of the family.

5 Q You don't know his last name?

6 A No.

7 Q I'm showing you what's in evidence as Government
8 Exhibit 2-Z Z Z. Who is that?

9 A Vinny Gotti.

10 Q Any relationship to John Gotti, Senior?

11 A His brother.

12 Q What's the highest position he obtained in the Gambino
13 family?

14 A Made member.

15 Q I'm showing you what's in evidence as Government
16 Exhibit 2-YY. Who is that?

17 A Richie Gotti, Junior.

18 Q What's the highest position he ever obtained in the
19 Gambino family?

20 A Made member.

21 Q Any relationship to John Gotti, Senior?

22 A His nephew.

23 Q Also the nephew of Vinny Gotti?

24 A Yes.

25 Q I'm showing you what's in evidence as Government

1 Exhibit 2-M M M. Who is that?

2 A Angelo Ruggerio, Junior.

3 Q What was he also referred to as?

4 A Junior.

5 Q What's the highest status in the family he obtained?

6 A He later on became a made member after I went to jail.

7 Q You testified before about Angelo Ruggerio, Senior.

8 What's his nickname?

9 A Quack Quack.

10 Q Does he have any relationship to Angelo Ruggerio?

11 A His father.

12 Q Whose crew were Vinny and his nephew in?

13 A Richie Gotti, Senior.

14 Q Did he have any relationship to John or Gene and Vinny?

15 A He's their brother.

16 Q Who wanted Angelo dead?

17 A Vinny Gotti.

18 Q Why?

19 A Because Vinny Gotti thought he was sleeping with his wife

20 or slept with his wife.

21 Q Do you know if it was true?

22 A No, I don't think it was true and I don't know if it was
23 true or not.

24 Q But you agreed to kill him anyway?

25 A Yes.

1 Q Do you know anything about Vinny Gotti's relationship
2 with his nephew Richie?

3 MR. SHARKEY: Objection, relevance.

4 THE COURT: I'll allow it.

5 A Yes.

6 Q Describe it, please.

7 A Rocky.

8 Q Do you know why?

9 A Yes.

10 Q Why?

11 A Richie borrowed some point money to put out on the
12 street. He didn't put the money out and was paying the vig
13 out of his pocket and eventually ran out of money to pay the
14 vig on the money and couldn't keep up his obligations with him
15 any longer.

16 Q You used a number of terms. What's point money?

17 A Point money is when I give you like money to put out on
18 the street, you're going to take it and you're going to put it
19 out for three points or four points when I give it to you at a
20 point.

21 Q What's a point?

22 A It's a percentage.

23 Q How is it calculated?

24 A One point is a dollar on a hundred.

25 Q One percent?

1 A Right.

2 Q How often is the interest calculated?

3 A Every week.

4 Q Is there another term for this, this financial
5 arrangement you're describing?

6 A Shylocking.

7 Q Another term?

8 A (No response.)

9 Q Loansharking?

10 A Loansharking, shylocking.

11 Q What's vig?

12 A Vig is the interest money that you pay every week.

13 Q In other words, Vinny Gotti -- strike it.

14 In other words, Richie Gotti had taken loanshark
15 money from his uncle, correct?

16 A Yes, point money.

17 Q He was having trouble paying it back?

18 A Correct. He didn't put the money out on the street like
19 he was supposed to.

20 Q He was having trouble paying the interest or vig?

21 A Yes.

22 Q Do you know if Vinny Gotti had a partner in his
23 loansharking business?

24 A Yes.

25 Q Who?

1 A Gene Gotti and Vinny DeCongilio.

2 Q I'm showing you what's in evidence as Government
3 Exhibit 2 PP, what's that?

4 A Vincent DeCongilio.

5 Q Vinny Hot?

6 A Yes.

7 Q What's the highest status he obtained in the family?

8 A When I left the street he was an associate.

9 Q Do you know if Richie owed his uncle Vinny money at the
10 time of the plot to kill the owner at Sapienza's?

11 A Yes, he owed him shylock money.

12 Q Were Vinny Gotti and DeCongilio still partners at the
13 time?

14 A Yes, they were partners. Vinny DeCongilio was in jail,
15 so was Gene.

16 Q Did Richie ever try to get back in favor with his
17 uncle --

18 MR. SHARKEY: Objection, relevance.

19 THE COURT: I'll allow it.

20 A Yes.

21 Q How?

22 A By getting involved in the Sapienza plot.

23 Q Who told you that?

24 A Vinny told me that.

25 MR. SHARKEY: Objection.

1 THE COURT: I'll allow it.

2 Q Vinny Gotti?

3 A Yes.

4 Q When were you asked to participate in killing the owner
5 of Sapienza's?

6 A The early part of 2000.

7 Q Did you agree to do it?

8 A Yes, I did.

9 Q Did you meet to plan the murder?

10 A Did I get a chance to plan? No.

11 Q Did you attend a meeting to plan the murder?

12 A I attended a meeting that they had a plan to commit the
13 murder. I didn't like the plan that they had.

14 Q What was the plan?

15 A The plan was to kill him in front of his house which was
16 across the street from St. Helen's church. I didn't want to
17 get involved in it. I thought that was a despicable
18 situation.

19 Q What did you propose to do?

20 A I told them leave it alone. I'll plan it out. We'll
21 take care of it a different way.

22 Q Was it despicable to do it in front of a church, as long
23 as you killed him somewhere else, that's okay?

24 A It's not okay. Everybody's family went to that church in
25 the neighborhood.

1 Q But the fact they wanted to do it in front of a church
2 meant you didn't want to do it that way?

3 A I didn't.

4 Q You were willing to do it another way?

5 A I would have done it another way.

6 Q Was there an attempt on the owner of Sapienza's life?

7 A Yes.

8 Q Who shot him?

9 A Angelo Ruggerio, Junior.

10 Q Who else was with him?

11 A Richie Gotti, Junior and Robert.

12 Q Who told you?

13 MR. SHARKEY: Objection.

14 THE COURT: I'll allow it.

15 A Angelo Ruggerio, Junior told me about it. Vinny Gotti
16 told me about it. They were all nervous. They left the
17 stolen car they used and Lindenwood -- they were afraid there
18 would be fingerprint evidence in the car.

19 Q Did this person Angelo die?

20 A No, he didn't.

21 Q Were you involved after the fact?

22 A Yes.

23 Q What did you do?

24 A I burnt the car.

25 Q What was the make and model of the car?

1 A A gray or greenish Ford Explorer.

2 Q Where had the car been obtained from?

3 A Angelo duplicated a set of keys of one of his customers
4 from the glass shop in Coney Island and later on went and
5 stole the car.

6 Q Anything happen to Vinny Gotti after the shooting?

7 A He was put on the shelf.

8 Q Did everyone recognize that?

9 A Everyone?

10 Q Yes.

11 A No.

12 Q Who didn't?

13 A His brother Pete.

14 Q What was his rank at the time?

15 A He was the boss of the family who was incarcerated at the
16 time.

17 Q What was the position --

18 A He was the boss.

19 Q 2-Q Q, who is that?

20 A Peter Gotti.

21 Q Did you also plan to kill other people but were
22 instructed not to do so?

23 A Yes.

24 Q How many times?

25 A Two.

- 1 Q Who was the first person?
- 2 A Michael Harrigan.
- 3 Q Was he associated with organized crime?
- 4 A Yes.
- 5 Q What family?
- 6 A Bonanno Family.
- 7 Q Who asked you to kill him?
- 8 A Michael Reiter.
- 9 Q Who is that?
- 10 A An associate in Charles' crew of the Gambino family.
- 11 Q The defendant's crew?
- 12 A Yes.
- 13 Q Why did Michael Reiter want Harrigan dead?
- 14 A Because Harrigan had his brother, Greg, killed.
- 15 Q Was Greg affiliated with organized crime?
- 16 A Yes.
- 17 Q Whose crew?
- 18 A Charles'.
- 19 Q The defendant's?
- 20 A Yes.
- 21 Q Who killed Reiter?
- 22 A Tommy Karate, T K.
- 23 Q T K?
- 24 A Tommy Karate, T K.
- 25 Q Who is he?

1 A A made member in the Bonanno Family.

2 Q Why did he kill Reiter?

3 MR. SHARKEY: Objection.

4 THE COURT: I'll allow it.

5 A There was a \$60,000 dispute over some marijuana that was
6 coming in from New Mexico that got seized and what happened
7 was Mike Harrigan owed Greg the 60,000, was jerking him around
8 about paying the money, wasn't paying, wasn't paying, wasn't
9 paying. Greg kept insisting he got paid. Harrigan ran to
10 Tommy Karate. Tommy Karate intervened in the beef. When he
11 intervened, he spoke to Greg and Greg told him "I don't know
12 you. You seem like a prankster, not a gangster." Tommy Karate
13 set the wheels in motion to kill Greg.

14 Q When were you asked to kill Harrigan?

15 A After Greg disappeared.

16 Q When was that?

17 A Sometime in the early '90s.

18 Q Why didn't you go through with the murder?

19 A I was told not to.

20 Q By who?

21 A Johnny Boy Ruggiero.

22 Q Who is he?

23 A Close associate of John Gotti, Junior.

24 Q Any relationship to Angelo Ruggiero, Senior?

25 A Oldest son.

1 Q Junior?

2 A No, he's not Junior.

3 Q Any relationship to Angelo Ruggiero, Junior?

4 A His brother.

5 Q I'm showing you what's in evidence as Government

6 Exhibit 2-X X. Who is that?

7 A Johnny Boy Ruggiero.

8 Q Highest status he obtained in the Gambino family?

9 A When I came to jail, he was still an associate.

10 Q I'm showing you what's in evidence as Government

11 Exhibit 2 J J J, who is that?

12 A Michael Reiter.

13 Q A member of the defendant's crew?

14 A Yes.

15 Q Highest status he obtained in the Gambino family?

16 A An associate.

17 Q Was Harrigan later killed?

18 A Yes.

19 Q Were you involved?

20 A No, I wasn't.

21 Q Did you ever find out who killed him?

22 A Yes.

23 Q Who?

24 MR. SHARKEY: Objection.

25 THE COURT: I'll allow it.

1 A Franky Americanda.

2 Q How did you find out?

3 A From Danny Fama.

4 Q How did you talk to Fama about the murder?

5 A I was sent for by Charles and Charles --

6 MR. SHARKEY: Objection.

7 THE COURT: I'll allow it.

8 Q Talking about the defendant?

9 A Yes, I was sent for by Charles. I went to his mother's
10 house in Howard Beach, Queens. He proceeded to yell and
11 scream at me in the middle of the street about killing Mike
12 Harrigan. I told him I didn't do it. He had Franky standing
13 there. There was an argument in the middle of the street. I
14 kept insisting I didn't kill the guy. He threatened me that
15 he will have Frankie Guidici kill me.

16 MR. SHARKEY: Objection.

17 THE COURT: Who is he?

18 THE WITNESS: Charles.

19 (Continued on next page).
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1 EXAMINATION CONTINUES

2 BY MR. NORRIS:

3 Q Continue.

4 A Told me that he'd have Frankie Guidici kill me.

5 MS. SHARKEY: Objection.

6 THE COURT: Overruled.

7 Q Continue.

8 A Charles stated to me that he'd have Frankie Guidici kill
9 me if he found out I was lying or if I had anything to do with
10 Mike Harrigan's murder.

11 Q Did you have anything to do with Mike Harrigan's murder?

12 A No.

13 Q You mentioned the name Danny Fama.

14 Who is he?

15 A Danny Fama was a very close associate of Sammy Gravano,
16 Sammy the Bull, the underboss of the family.

17 Q Showing you what's in evidence as Government Exhibit 2-R.

18 Who is that?

19 A Sammy the Bull Gravano.

20 THE COURT: When you reach a breaking point that's
21 satisfactory, let me know, please. We will break for lunch.

22 MR. NORRIS: I only have about five more minutes of
23 questioning. Then we are done with that section.

24 Shall we finish this or come back after?

25 THE COURT: No. You can finish.

1 MR. NORRIS: I will do it quickly.

2 Q Who was the second individual you planned to kill but was
3 instructed not to kill?

4 A Scott Schulman.

5 Q Is he affiliated with organized crime?

6 A Yes, he was.

7 Q Which family?

8 A Gambino.

9 Q Why did you plan to kill him?

10 A Because I caught him hanging around by my mother's house
11 setting up to either do something to me or start planning on
12 doing something to me.

13 Q When?

14 A This was in the mid- -- the mid-1990s.

15 Q After you saw Schulman sitting on your mother's house,
16 did you speak with him?

17 A Yes.

18 Q What did you discuss?

19 A I discussed the sale of my junkyard and if he wanted to
20 get together with me to discuss it.

21 Q Did you go?

22 A Yes.

23 Q Where did you meet him?

24 A I didn't meet him. He never showed up.

25 Q Did you later meet him?

1 A I never met him. He never showed up.

2 Q Did he later ask you to meet him?

3 A He asked to meet me and he never showed up at the meeting
4 at New Park Pizza.

5 Q Where is that?

6 A Howard Beach, Queens.

7 Q Did you go to the meeting?

8 A Yes, I did.

9 Q Were you armed?

10 A Yes.

11 Q With what?

12 A Shotgun.

13 Q What happened when you arrived?

14 A I waited there for Scott Schulman to show up. He didn't
15 show up. Charles showed up with Kevin McMahon.

16 Q Referring to the defendant?

17 A Yes.

18 Q That's the same Kevin McMahon you testified that was in
19 the defendant's crew?

20 A Yes.

21 Q The same Kevin McMahon that you testified that you and
22 the defendant went to the Hamptons with?

23 A Yes.

24 Q He was in the defendant's crew at the time?

25 A Yes.

1 Q Were you still in the defendant's crew at the time?

2 A No.

3 Q What happened when you saw the defendant and Kevin
4 McMahon?

5 MS. SHARKEY: Objection.

6 THE COURT: I will allow it.

7 A He asked me what I was doing.

8 Q Who?

9 THE COURT: Who is he?

10 A Charles asked me what I was doing. I explained to him I
11 was waiting for Scott Schulman and I was going to leave him
12 right there. I was going to kill him, shoot him with the
13 shotgun.

14 Q Had you expecting to see the defendant and Kevin McMahon
15 show up?

16 A No. Totally took me by surprise.

17 Q What did you think when you saw them show up?

18 A I didn't know what to think.

19 MS. SHARKEY: Objection. Objection, as to form.
20 What did you think?

21 THE COURT: Overruled.

22 Q You didn't know what to think?

23 A No, I didn't.

24 Q Were you suspicious?

25 A Yes.

1 Q Of what?

2 A Of why they showed up there and Scott Schulman didn't
3 show up.

4 Q Explain to the jury, what you were suspicious of.

5 MS. SHARKEY: Objection.

6 THE COURT: I will allow it.

7 A Answer the question?

8 Q Please.

9 A That they were either looking to do something to me or
10 there was something else going on.

11 Q Did you kill Schulman that day?

12 A No.

13 Q Was he later killed?

14 A Yes.

15 Q Were you involved?

16 A No.

17 Q You also helped friends and associates after they killed
18 people?

19 A Yes.

20 Q By "help," what did you do?

21 A I had cars stolen for them, parked at the spot where they
22 were going to do the killing. I picked them up after killings
23 were done.

24 Q How many times?

25 A Twice.

1 Q When?

2 A In the early 1990s in Queens.

3 Q One of those involved Danny Fama?

4 A Both of them involved Danny Fama.

5 Q Did you also receive money from crimes where someone was
6 killed?

7 A Yes.

8 Q What crime?

9 A A security guard was killed and I received \$12,000. I
10 found out after the fact.

11 Q Why?

12 MS. SHARKEY: Objection as to form.

13 THE COURT: I will allow it.

14 Q When -- I will strike it.

15 When was the crime committed?

16 A The mid-nineties.

17 Q Who killed the security guard?

18 A Patsy Andriano Junior and my brother Steven.

19 Q Were you involved in the killing?

20 A No.

21 Q Why did you receive money after the fact?

22 A They just kicked me up some money.

23 Q How much did they give you?

24 A Twelve thousand.

25 Q They just kicked it up for no reason?

1 A No reason.

2 Q Did they know you would be upset?

3 A They knew I would be upset. I didn't need them to go
4 around killing people for money.

5 Q Even though you had agreed once to kill someone for
6 money?

7 A Yes.

8 Q Did you know the location where the security guard was
9 killed?

10 A Yes; at Brooklyn Resource Recycling, the shredder.

11 Q Do you know who owned it?

12 A Yes.

13 Q Who?

14 A Bobby Roselli.

15 Q Who is that?

16 A He was a good friend of mine.

17 Q Did you know the guard who was killed?

18 A No, I didn't.

19 Q When did you get the money?

20 A The next day.

21 Q Where were you when you got the money?

22 A I was in my mother's bathroom on the toilet bowl.

23 Q Did you ever commit any acts of violence against any
24 women?

25 A Yes.

1 Q Who?

2 A Dawn DiMario, Gina LoFreddo, Marie DiMario.

3 Q Who are they?

4 A Marie DiMario was my mother-in-law; Dawn DiMario was my
5 ex-wife; and Gina LoFreddo is an ex-wife.

6 Q Explain the first incident.

7 A I had an altercation with Carl DiMario, Dawn DiMario's
8 brother. He pulled a gun on me. I chased him down into his
9 house. I had a fight with him. As I was beating him up on
10 the floor, his mother ran up behind me and hit me in the head
11 with a telephone. I turned around and just swung at her,
12 protecting myself. I punched her in the eye, blackened both
13 her eyes, knocked her out cold.

14 As I was leaving the house, I pushed Dawn on the
15 floor.

16 Q What about -- what happened to Gina?

17 A Gina found out that I was cheating on her. She flipped
18 out on me. I couldn't control it. She started swinging. I
19 grabbed her hands. I pushed her down on the couch. She
20 jumped up again. I pushed her back down on the couch. And I
21 shoved her on the couch a couple of times, forcefully.

22 Q When did you first file an income tax return in your
23 life?

24 THE COURT: Why don't we stop?

25 Have your lunch. Be back at twenty to two, please.

1 (The following occurred in the absence of the jury.)

2 THE COURT: Any applications?

3 MS. SHARKEY: Judge, I do.

4 I would like a clarification. Earlier the Court
5 read in an instruction concerning this witness and the death
6 penalty. Frankly, Judge, I didn't read it before it was
7 submitted to you. I think there are -- if not factual
8 inaccuracies, I am certain the way it is worded leaves the
9 wrong impression with the jury. I think the way it is worded
10 makes the jury -- will make the jury think that there is an
11 open death penalty -- I do, Judge -- pending against this
12 individual.

13 THE COURT: I don't think so.

14 MS. SHARKEY: Could I respectfully, Judge, over the
15 lunch break, submit different language?

16 THE COURT: You may.

17 MS. SHARKEY: Thank you.

18 THE COURT: You have no further application?

19 MS. SHARKEY: Not at this time.

20 THE COURT: Thank you.

21 MR. BURLINGAME: Judge, we would want -- one area of
22 question that Your Honor stopped was on the -- when Mr. Norris
23 was laying a foundation towards the defendant disposing of the
24 body of the man who ran over John Gotti's son. I believe that
25 that was a properly admissible coconspirator statement. Your

1 Honor properly -- has already ruled that the defendant
2 disposing of that body is properly part of the case and it
3 goes to --

4 THE COURT: The defendant disposed of the body?

5 MR. BURLINGAME: Yes.

6 MR. NORRIS: To be clear, the witness, his
7 understanding is the defendant was involved in the murder.
8 But his understanding will corroborate other witnesses --

9 THE COURT: How did he achieve that understanding?
10 From the defendant?

11 MR. NORRIS: Through talking to his closest
12 associate, Andrew Curro.

13 MR. BURLINGAME: The foundation Mr. Norris laid was
14 that this was a subconspiracy within the Gambino Family of
15 John Gotti's immediate closest associate who carried out the
16 murder of his neighbor who ran over his son in violation of
17 the Gambino Family's orders. It was an extremely close knit
18 group and the communications between them concerning the
19 murder were clearly in furtherance of that conspiracy, which
20 the Court has already ruled is properly admissible.

21 I think the evidence that --

22 THE COURT: What did the defendant allegedly do
23 about disposing of the body?

24 MR. BURLINGAME: Well, it -- one of the later
25 cooperating witnesses will testify that the defendant told him

1 that he disposed of the body.

2 THE COURT: I will let it in when that other witness
3 comes in.

4 MR. BURLINGAME: Right.

5 What this witness will say is that he participated
6 in the Favara murder which is, A, his understanding. It's a
7 properly admissible statement and, B, it corroborates the
8 later cooperating witness.

9 THE COURT: That he participated? The witness
10 participated?

11 MR. BURLINGAME: The witness is aware of the -- of
12 the defendant's crew and the defendant participated in the
13 murder.

14 THE COURT: The witness was aware that the defendant
15 participated in the murder by disposing of the body?

16 MR. BURLINGAME: No.

17 The later witness will testify that it was through
18 the disposal of the body. This witness solely knows that he
19 was involved in the murder.

20 THE COURT: No. It's too ambiguous. I won't allow
21 it.

22 I have allowed you fairly widely way because it does
23 show the trivial and rather puerile reasons for the mob
24 members killing and assaulting each other and makes it,
25 therefore, more believable to think that this defendant

1 participated in these series of murders and killings and
2 assaults within the mob. But I won't go further with respect
3 to your application.

4 MR. NORRIS: Could I ask one follow-up question,
5 Your Honor?

6 If we don't get into the defendant's involvement in
7 the murder, is it possible to finish the story of the
8 sit-downs and the issue of what was at issue and the witness'
9 discussions with Andrew Curro, which was --

10 THE COURT: As to what?

11 MR. NORRIS: The discussion was -- the reason why
12 they were discussing it was they were wondering whether Gotti
13 was going to get permission to kill Favara. Everyone knew
14 that the underboss, Dellacroce, said no, you can't do it.

15 THE COURT: That you established.

16 MR. NORRIS: That we established.

17 And then we are going to cut off, what happened
18 after, which is Favara was killed on John Gotti's orders and
19 that was a violation of the underboss's command and there was
20 no -- there was no discipline of John Gotti for disobeying
21 such an order.

22 THE COURT: That little bit you can get in; just
23 that bit.

24 MR. BURLINGAME: Judge, the final matter. I'm sure
25 defense counsel is aware that the defendant's admissions to

1 crimes are properly admissible. So I would ask that the Court
2 instruct them to refrain from the gratuitous objections which
3 I believe are simply designed to interrupt the witness'
4 testimony on clearly admissible evidence.

5 MS. SHARKEY: Do you want me to respond, Judge?

6 THE COURT: No, I don't.

7 Denied.

8 MR. FARBER: Judge, one thing that does come to
9 mind, I don't know if the Court wishes us to prepare a
10 curative -- an instruction or is the Court prepared to issue
11 one? There has been testimony about the unindicted crimes
12 that are being attributed to Mr. Carneglia. Is there a point
13 in time where the Court is going to --

14 THE COURT: I did instruct them already.

15 MR. FARBER: There have been additional crimes
16 besides the --

17 THE COURT: I am not going to instruct them with
18 respect to every crime that this defendant purportedly
19 committed. I will be instructing them every three minutes.

20 Thank you.

21 MR. BURLINGAME: Judge, what time would you like us
22 back?

23 THE COURT: I think I said twenty to two, did I not?

24 MR. BURLINGAME: Thank you, Judge.

25 THE COURT: Have the defendant in his seat at twenty

1 to two, please.

2 (Luncheon recess taken.)

3 (Continued on next page.)

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1 A F T E R N O O N S E S S I O N

2 (The following occurred in the absence of the jury.)

3 THE COURT: Bring in the defendant, please.

4 Bring in the witness, please.

5 Bring in the jury, please.

6 We have a note from Mr. Burlingame saying that the
7 witness thinks he recognizes a juror.

8 (The witness is present.)

9 MR. BURLINGAME: Correct.

10 THE COURT: Which juror do you recognize, sir?

11 THE WITNESS: I think it's the gentleman sitting
12 right in the seat here.

13 THE COURT: Which one? The first?

14 THE WITNESS: The gray fleece sweater on with the
15 bald head.

16 MR. BURLINGAME: Tell me when I get to the right
17 seat. Which one?

18 THE WITNESS: It's either that seat or the next one.
19 That one or that one.

20 MR. BURLINGAME: So it would be eight or nine.

21 THE WITNESS: Got a gray fleece.

22 THE COURT: How do you think you know him?

23 THE WITNESS: I think I know him from my
24 neighborhood. I am not absolutely sure.

25 MR. BURLINGAME: You also believe that he knows the

1 defendant?

2 THE WITNESS: Not absolutely sure, but he might.

3 THE COURT: What do you want to do about it?

4 MR. BURLINGAME: I think we should see if there is a
5 way we could talk to the juror and see if they say anything.
6 Perhaps out of the presence of the other jurors?

7 MR. FARBER: Judge, I would object to singling out
8 any particular juror. I would rather, if you want to make an
9 inquiry, bring the whole jury in and ask the jury as a whole
10 if anyone in the panel --

11 THE COURT: All right. We will do that.

12 Bring in --

13 MS. SHARKEY: -- recognizes -- may I ask what the
14 Court's inquiry will be if they recognize any of the people
15 who have testified in the case?

16 THE COURT: I will keep that person in here and
17 inquire of him without the presence of the rest of the jury.

18 MS. SHARKEY: If anybody acknowledges that?

19 THE COURT: Correct.

20 MS. SHARKEY: Judge, I also have a follow-up
21 application concerning that instruction. I know that I spoke
22 with Mr. Norris and Mr. Burlingame about it. It's the
23 government's intention to elicit on direct examination if this
24 witness' -- if it's this witness' understanding that if he
25 violates the plea agreement, he could be subject to capital

1 prosecution.

2 It's the defense's position that that is factually
3 inaccurate.

4 THE COURT: It doesn't make a bit of difference.
5 It's his state of mind that is important.

6 MS. SHARKEY: Well, respectfully, Judge, it does
7 make a difference. I mean, I -- I mean, because what they are
8 relying on -- there is nothing in the plea agreement that says
9 that. There is this standard clause that says, enhanced
10 provisions.

11 MR. BURLINGAME: I would ask that we remove the
12 witness while we have the discussion about this.

13 MS. SHARKEY: Forgive me. Thank you,
14 Mr. Burlingame.

15 THE COURT: Yes. All right. Hold him in the
16 corridor, please.

17 (Witness leaves courtroom.)

18 THE COURT: Yes?

19 MS. SHARKEY: Judge, what the government is relying
20 on, and we tried to work this out amicably over the break, but
21 what the government is relying on, on page 11, at the bottom
22 of page 11, going to top of page 12, paragraph eight of the
23 plea agreement.

24 THE COURT: Yes?

25 MS. SHARKEY: That blah blah blah blah, and shall be

1 subject to sentencing under enhanced provisions for violations
2 as to which he has already pled guilty. Standard language.
3 The defendant was charged with murder early in aid of
4 racketeering.

5 I called the Federal Resource Center because it
6 didn't -- at the time that the request was made by
7 Mr. Burlingame, it didn't sound right to me. Not -- not
8 purposefully not right, but legally not right.

9 One of our paralegals is down looking at the U.S.
10 Attorney's manual in the library.

11 THE COURT: Excuse me. I have already told you that
12 it makes no difference what the real situation is. It is what
13 he believes that counts.

14 MS. SHARKEY: Under 403, respectfully, Judge, that
15 has -- I am going to ask that the Court preclude the
16 government from that line of questioning because it is so
17 bolstering of this witness' allegations or testimony that he
18 will say I am telling the truth. I am telling the truth.
19 Because I am -- I want to hold on to my plea agreement.

20 Under 403, balancing test, that has never happened.
21 Never, never, and this is by representation -- by lawyers who
22 are employed by OCA through the Federal Resource Center, for
23 death penalty cases, that has never happened, that an
24 individual has testified and that as a result of a -- forget
25 the testimony. That as a result of the government deciding

1 that a plea agreement was broken, that they have then gone
2 back and sought the death penalty.

3 THE COURT: It makes no difference, as I said three
4 times, what the reality is. It is what is in his mind that
5 counts. Because it is the threat that he sees that will
6 induce him or not induce him, and that's what the jury is
7 entitled to know.

8 If he came on the stand and thought he would be
9 whipped or stoned to death if he lied, that too might come in.
10 Now, bring him in. Let's get the jury in.

11 I think your point is well taken and very well made.

12 MS. SHARKEY: Pardon?

13 THE COURT: I think your point is well taken and the
14 argument was very well made.

15 MS. SHARKEY: Thank you, Judge.

16 Judge, could I ask you one other question?

17 You invited us to make an application at the break
18 and you said, do you have an application to make? What I
19 should have said was, did I miss something? Were you inviting
20 an application that defense overlooked?

21 THE COURT: I am not at this point -- yes, you
22 should have objected to my allowing this broad based inquiry
23 about all these other activities and murders that didn't
24 affect the defendant.

25 MS. SHARKEY: But I was objecting.

1 THE COURT: You didn't object to the final series
2 which I allowed in without any problem.

3 MR. BURLINGAME: Judge, the --

4 THE COURT: And your objection is deemed made and
5 overruled. Because, as I told the government and you during
6 the intermission -- I'm sorry -- it looks like a play, but it
7 really isn't -- during the recess, the testimony about the
8 trivial and puerile reasons for killing and not killing shows
9 the way the mobs operate and makes it more likely, therefore,
10 that this defendant killed unnecessarily and for these weird
11 reasons that we have been hearing about.

12 (The witness is present.)

13 THE COURT: So I allowed the government to go
14 forward.

15 But your objection, which you are now making
16 forcefully to this testimony, is overruled for that reason.

17 MS. SHARKEY: Thank you.

18 THE COURT: It shows how this mob operates and the
19 childish vindication that results in these horrible murders.

20 Bring the jury in, please.

21 MR. BURLINGAME: Judge, one question before the jury
22 comes in. We are going to plan to, in accord with Your
23 Honor's ruling earlier this morning, introduce the cooperation
24 agreement for the cooperators in redacted form. Would you
25 like us to move to admit them subject to connection or

1 something while the cooperators are on the stand?

2 THE COURT: You can move to admit them. I will tell
3 the jury they will be redacted.

4 MR. FARBER: We haven't had an opportunity to review
5 the redaction.

6 THE COURT: You will look at them before they are
7 redacted and given to the jury. That's why we meet at 9:00
8 o'clock.

9 Where is our jury?

10 THE CLERK: Coming in, Judge.

11 MR. BURLINGAME: Thank you, Judge.

12 THE COURT: Cut it to the bare bones. I don't want
13 very much in there.

14 (Jury present.)

15 THE COURT: All right. Please be seated, everyone.
16 Continue.

17 Do any of the jurors recognize this witness?

18 Do any of the jurors recognize this witness?

19 THE JURORS: Yes.

20 Oh, no.

21 THE COURT: Do any of you think you have seen him
22 before?

23 Proceed.

24 None having indicated.

25 (Continued on next page.)

1 EXAMINATION CONTINUES

2 BY MR. NORRIS:

3 Q Mr. Zuccaro, before the break you told the jury about a
4 lot of crimes you committed over the course of your career.

5 Is that correct?

6 A Yes.

7 Q How did the government find out about the vast majority
8 of the crimes you committed?

9 A I told them.

10 Q Did that include all the murders, the murder conspiracies
11 you just testified about?

12 A Yes.

13 Q Why did you tell the government about them?

14 A Because when you begin cooperating with the government,
15 you got to tell them everything, from day one of your criminal
16 career, all the way until the day that you start cooperating;
17 everything.

18 Q Let's talk about the murder of Albert Gelb.

19 You testified that you and the defendant assaulted
20 Albert Gelb, is that correct?

21 A Yes.

22 Q Where did you assault him?

23 A In the Esquire Diner.

24 Q Where is the Esquire Diner?

25 A On Cross Bay Boulevard in Ozone Park.

1 Q When did you and the defendant assault Albert Gelb at the
2 Esquire Diner?

3 A In the mid-1970s.

4 Q Do you remember what year?

5 A I think it was 1975.

6 Q Do you remember what month?

7 A February.

8 Q How do you remember the date?

9 A My brother just passed away.

10 Q Which brother?

11 A Robert.

12 Q How did you -- what time of day were you at the Esquire
13 Diner?

14 A It was very late at night.

15 Q How did you come to be at the Esquire Diner that night?

16 A I was there with two friends, just looking for some peace
17 of mind, thinking about what just took place in my family and
18 the tragedy of my brother passing away.

19 Q How old were you in February 1975?

20 A Nineteen, going on twenty.

21 Q How old was your brother Robert?

22 A Seventeen.

23 Q Where did he die?

24 A He died in an apartment on Autumn Avenue, in East
25 New York.

1 Q Do you know how he died?

2 A Either it was a drug overdose or an abscess that he had
3 on his spine exploded and went into his bloodstream.

4 Q Did you go to the Esquire Diner often?

5 A No.

6 Q Why did you go to that diner that night?

7 A The other diners in the neighborhood could have been
8 closed and I was looking for a place where I could be
9 basically alone. Just my two friends that were with me.

10 Q Which two friends were with you that night?

11 A Malcolm Settle and Andrew Curro.

12 Q Andrew Curro we talked about before, is that right?

13 A Yes.

14 Q That was a close friend of yours, correct?

15 A Yes.

16 Q And the defendant's right hand man, is that correct?

17 A Yes.

18 Q Who was Malcolm Settle?

19 A Malcolm Settle was a neighbor of mine and a friend.

20 Q Was he affiliated with organized crime?

21 A No.

22 He was affiliated with me. He stole with me, he
23 stole cars with me. He wasn't affiliated with organized
24 crime.

25 Q How did you get to the diner that night?

1 A We drove in Malcolm's mother's station wagon.

2 Q Do you recall where Malcolm parked when the three of you
3 got to the diner?

4 A He parked in the diner parking lot.

5 Q Did there come a time when the defendant came into the
6 diner?

7 A Yes.

8 Q What was he wearing?

9 A He was dressed up, in a -- in a jacket, shirt and dress
10 slacks, dress shoes.

11 Q Did you speak with him?

12 A Yes.

13 Q Did he say where he had come from?

14 A Yes.

15 Q Where?

16 A He came from Cookie DeVito and Tommy DeSimone's wedding.

17 Q Who is Tommy De Simone?

18 A He was an associate of the Luchese Crime Family.

19 Q Who was Cookie DeVito?

20 A She was Sally DeVito's daughter, who was an associate of
21 the Gambino Crime Family.

22 Q Was the defendant sober when he came in?

23 A He wasn't fall down drunk. I don't know if he was sober
24 or he was drinking or what the story was.

25 Q But he had his faculties?

1 A Yes.

2 Q Did you notice anything unusual about him that night?

3 MS. SHARKEY: Objection.

4 THE COURT: I will allow it.

5 A Answer the question?

6 Q Please.

7 A He leaned over the table as he talked to us, his suit
8 jacket split open and two pistols were in his back.

9 Q Where were the pistols?

10 A They were in his back, right here.

11 Q Gesturing to the back waistband?

12 A Yes.

13 Q Where were you seated when he came over to you?

14 A I was seated in a booth on the Cross Bay Boulevard side
15 of the diner. That would be the southwest corner of the
16 diner. I was facing east, towards the entrance.

17 Q Where were Malcolm and Andrew sitting?

18 A They were sitting across from me.

19 Q You testified before that it wasn't unusual for you to
20 see the defendant with a gun, is that right?

21 A Yes.

22 Q Why were you surprised that night to see him with guns?

23 A Because he was dressed up. He just come from a wedding.
24 And he had two guns, not one.

25 Q Did you have any understanding as to why -- strike that.

1 Did the defendant tell you why he had brought guns
2 to that wedding?

3 MS. SHARKEY: Objection.

4 A Yes.

5 THE COURT: You may answer.

6 A Tommy DeSimone was on a hit list from the Gambino Family
7 for killing Foxy.

8 Q Who was Foxy?

9 A Foxy was a close associate of John Gotti.

10 Q Why did Tommy DeSimone kill Foxy?

11 A There was a beef that --

12 MR. FARBER: Objection.

13 THE COURT: Find out how he found out.

14 Q Did you find out why Tommy DeSimone killed Foxy?

15 A Yes.

16 Q How did you find out?

17 A It was well-known through the crew and from Charles.

18 Q You talked about it with the defendant?

19 A Yes, before that.

20 Q Why did Tommy DeSimone kill Foxy?

21 A Tommy DeSimone killed Foxy because Foxy was pretty upset
22 that Tommy was hijacking with him. They were stealing
23 together and Tommy was dating Foxy's sister behind his back
24 without his knowledge.

25 Q Did --

1 A While he was going with a lot of other women in the
2 neighborhood.

3 Q After the defendant came over to the table, you said he
4 leaned against the table, is that right?

5 A Yes.

6 Q That's when you saw the guns stick out the back of his
7 jacket?

8 A Yes.

9 Q Did he sit down?

10 A No.

11 Q When you saw the guns, did you say anything?

12 A I said hide the guns. Those guns are showing.

13 Q What did the defendant do?

14 A He stood up erect, fixed the suit jacket, turned around
15 and went downstairs to the bathroom.

16 Q Where was the bathroom compared to where you were
17 sitting?

18 A The bathroom was behind me, down the staircase.

19 Q How far away was the staircase from where you were
20 sitting?

21 A Maybe five, six steps.

22 Q Close?

23 A Not far.

24 Q When did you first see Albert Gelb that night?

25 A He walked in the diner pretty much right after Charles.

1 Q Do you recall how he was dressed?

2 A He was dressed with a long coat on. I think it was a
3 leather coat, and a floppy big hat. With a cowboy hat,
4 western style, you know, Beau Brummel style.

5 Q The -- strike that.

6 He was dressed up?

7 A Pretty much.

8 Q Was he with anybody?

9 A He was with a woman.

10 Q What color was her hair?

11 A Blond.

12 Q After the defendant went down to the bathroom, what
13 happened next?

14 A A couple of minutes later, I heard yelling and screaming
15 down there. Help me, this, you, it was just yelling and
16 screaming. I got up. I ran down the stairs. I recognized it
17 was Charles's voice.

18 (Continued on next page.)

19

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25

1 BY MR. NORRIS:

2 Q Let me stop you right there?

3 The person yelling "Help," did you recognize the
4 voice at the time you heard it.

5 A Yes.

6 Q That was the defendant's voice?

7 A Yes.

8 Q At that point, had you seen anyone else go downstairs
9 after the defendant had gone down?

10 A I really didn't notice that. That was not something I
11 was thinking about at the time. I was concentrating on what
12 was going on with my family. I didn't notice the guy walk
13 past me.

14 Q And you don't know this person's name at this point; is
15 that correct?

16 A No.

17 Q You didn't know Albert Gelb was Albert Gelb?

18 A No.

19 Q When the defendant went downstairs, a couple of minutes
20 passed, and then you heard him yelling for help; is that
21 correct?

22 A Yes.

23 Q What did you do?

24 A I ran down the stairs.

25 Q Did Andrew and Malcom go with you?

1 A I really didn't take notice of what they were doing at
2 the time. I just wanted to get down the stairs and see what
3 was going on with Charley. I wasn't worried about Andrew or
4 Malcom.

5 Q What did you see when you got downstairs?

6 A I seen Charles and Albert Gelb in the middle of a
7 struggle.

8 Q What do you mean by a "struggle"?

9 A They were struggling with each other, tussling with each
10 other.

11 Q Was either of them holding anything?

12 A I believed they had a pistol that was pointed up in the
13 air. I don't know whose hand it was in.

14 Q Were they inside the bathroom or outside the bathroom?

15 A Outside the bathroom.

16 Q What else was down there?

17 A There was a men's room, a ladies room, and I believe a
18 telephone.

19 Q Was anyone saying anything?

20 A Just "Help me." Then I did what I had to do with the
21 guy.

22 Q The defendant was still saying "Help"?

23 A Yes, Get this guy off me.

24 Q Did Gelb say anything?

25 A I believe Gelb was trying to get my attention too, to

1 help him.

2 Q In what way? Did he say something?

3 A I don't recall what he said. He could have said
4 something.

5 Q You're not sure?

6 A I'm not absolutely sure.

7 Q What did you do?

8 A I knocked Albert Gelb to the ground and proceeded to beat
9 him up.

10 Q How did you knock him down to the ground?

11 A I punched in the side of the head a couple of times. He
12 went down.

13 Q What did you do next?

14 A I told Charles to leave.

15 Q Did you hit Gelb anymore?

16 A Yes.

17 Q How did you hit him?

18 A I might have kicked him a couple of times, punched him a
19 couple of more times, while he was down on the ground.

20 Q Why did you tell the defendant to leave?

21 A Because he had two pistols, and him and I didn't know
22 what was going down.

23 Q What did the defendant do?

24 A He ran up the stairs.

25 Q At that point, do you recall seeing Andrew Curro or

1 Malcom Settle?

2 A Yes.

3 Q When you were downstairs or after you had gone back?

4 A They were on the staircase.

5 Q You saw them up the staircase?

6 A I seen them in the middle or on the staircase.

7 Q What did you do after you beat and kicked Albert Gelb and
8 the defendant went upstairs?

9 A I turned around and I went up the stairs.

10 Q Was the defendant still up there when you got upstairs?

11 A Yes.

12 Q What was he doing?

13 A He was very angry. He was in the front section of the
14 diner by the entrance, yelling that he was going to get the
15 guy arrested.

16 Q Meaning Gelb?

17 A Yes.

18 Q Causing a commotion?

19 A I told him to leave. He didn't want to leave.

20 Q Was this causing a commotion?

21 A Yes.

22 Q Where were Andrew Curro and Malcom Settle at this time?

23 A They were coming back into the diner.

24 Q They had already left the diner?

25 A They were coming back into the entrance of the diner. I

1 didn't see them leave the diner. That's what they were doing.
2 They were coming back into the diner. They had to be leaving
3 the diner to come back in.

4 Q Did you see anyone else in the diner react to what was
5 going on?

6 A Yes.

7 The girl that seats you, the cashier and the rest of
8 the people that were in the diner.

9 Q What was the woman, the cashier, what was she doing?

10 A She was getting on the telephone to call the police.

11 Q Did you know who she was?

12 A Yes.

13 Q What was her name?

14 A Debbie Cockerham.

15 Q Can you spell that?

16 A D E B B I E, C O C K E R H A M.

17 Q How do you know her?

18 A I went to school with her. She was in my brother
19 Robert's class.

20 Q The one who just died?

21 A Yes.

22 Q What school?

23 A Saint Fortunato's.

24 Q Catholic school?

25 A Yes.

1 Q What did you do when you saw her on the phone?

2 A I ripped the phone out of her hand.

3 Q What did you do next?

4 A I either ripped the phone off the wall or slammed it
5 down, something I did with the phone, but I made sure she
6 didn't get the call out.

7 Q Was the defendant still causing a commotion?

8 A Yes.

9 Q What did you do at that point?

10 A I told him to, Let's go. Let's get out of here. He said
11 he was going to get the guy arrested, and I turned around to
12 leave the diner.

13 Q The defendant didn't go with you?

14 A No.

15 Q He stayed there?

16 A Yes, he did.

17 Q What was happening as you were leaving?

18 A There was sirens, police were showing up, a lot of things
19 were going on, to panic inside the diner.

20 Q Were there police inside the diner already when you were
21 walking out?

22 A I think they were just pulling up as I got out of the
23 door of the diner.

24 Q Where were Andrew and Malcom at that point?

25 A They were in the lobby.

1 Q Did you ever see the guns, the two guns, that were in the
2 defendant's waistband after you saw the defendant go
3 downstairs?

4 A No.

5 Q Where did you go next when you left the diner?

6 A I went across the street to the car service.

7 Q Did you go with anyone else?

8 A Andrew Curro.

9 Q Where did Malcom go?

10 A I don't know.

11 Q Where was his car?

12 A It was left in the diner parking lot.

13 Q When you and Andrew got across the street to the car
14 service, could you still see the diner?

15 A Yes.

16 Q What could you see happening?

17 A It looked like they were arresting Charles.

18 Q What did you and Andrew do next?

19 A We took a cab to Charles's brother's house.

20 Q John?

21 A Yes.

22 Q Where was John Carneglia's house at that time?

23 A On 85th Street and 163rd Avenue in Howard Beach.

24 Q Why did you go there?

25 A To let him know that Charles was just arrested in the

1 Esquire Diner.

2 Q Was he home?

3 A Yes.

4 Q Awake or asleep?

5 A He was asleep.

6 Q What happened when you woke him up?

7 A He was very angry.

8 Q At who?

9 A At me and Andrew and, I guess, Charles.

10 Q Why would he be angry at you and Andrew?

11 MR. FARBER: Objection.

12 A I don't know why.

13 Q Where did you and Andrew go next, after you went to
14 John's house?

15 A Where did we go after we let John know what happened?

16 Q Yes.

17 A We left.

18 Q Where did you go?

19 A I went home.

20 Q How did you get home?

21 A I don't remember how I got home, but I went home. Maybe
22 we made the cab wait out there. I forget how we got home.

23 Q What happened the next day?

24 A The next day?

25 I seen Malcom and asked him what's going on. He was

1 panicked. They confiscated his mother's car.

2 Q Did he say where they had confiscated his mother's car
3 from?

4 A Out of the diner parking lot.

5 Q Did he say why he was panicked?

6 MS. SHARKEY: Objection. Hearsay.

7 THE COURT: What did he say?

8 MS. SHARKEY: Objection.

9 THE COURT: You can ask what he said.

10 Q What did Malcom say to you?

11 A He was nervous about the situation.

12 Q Did he say why?

13 MS. SHARKEY: Objection.

14 THE COURT: I'll allow it.

15 A 'Cause he put the guns in his mother's car.

16 Q Did he say anything else about why he was nervous?

17 MS. SHARKEY: Objection.

18 THE COURT: I'll allow it.

19 A Maybe he was nervous over who these people were, who
20 Charles was, and who his brother was --

21 MR. FARBER: Objection.

22 A -- and that they found guns in his mother's car and
23 confiscated it.

24 Q Did you talk to Andrew Curro that day?

25 A Yes. I could have talked to Andrew.

1 Q Did you see Andrew after that?

2 A Yes.

3 Q Did you go somewhere with him?

4 A Yes, to the junkyard. It was not that day. Probably a
5 day later or the following day.

6 Q Which junkyard?

7 A Fountain Auto.

8 Q The junkyard that the defendant and his brother had?

9 A Yes.

10 Q In East New York?

11 A Yes.

12 Q Who was there when you and Andrew arrived?

13 A John.

14 Q Did anyone else show up?

15 A Charles.

16 Q Did the defendant tell you whether he had been charged
17 after he had been arrested?

18 A Yes.

19 Q Did he tell you what he had been charged with?

20 A No. I didn't discuss what he's been charged with, just
21 that he's got a case and this is the situation, who this kid
22 Malcom was. You know, that was damage control now.

23 Q Did he talk about Gelb that day?

24 A Not really.

25 Q You said "damage control." What did he talk about with

1 respect to Malcom?

2 A He wanted to know what was up with this kid Malcom, who
3 he was, what his capacity was with me, if he was a stand-up
4 kid, what the deal was.

5 Q By "capacity" --

6 A I meant if the kid was going to be a rat, going to
7 testify against him. If he got pinched for the situation,
8 what was going to be the outcome.

9 Q This is what he said to you?

10 A Well, that was his concerns.

11 Q That was your understanding of his concerns?

12 A Yes.

13 Q Did the defendant and his brother know Malcom Settle at
14 that point?

15 A No.

16 Q Did they know you and Andrew Curro well at that point?

17 A Yes.

18 Q Did they express -- either John or the defendant --
19 express any concerns to you and Andrew about whether you would
20 cooperate with the police?

21 A No.

22 Q Did the police ever question you about what had happened
23 at the diner?

24 A No.

25 Q If they had, would you have told them the truth?

1 MS. SHARKEY: Objection.

2 THE COURT: Sustained.

3 Q What did you tell the defendant about Malcom Settle when
4 he expressed his concern to you?

5 A That he was a good kid, he was going to mind his business
6 and ride the wave.

7 Q What do you mean by "ride the wave"?

8 A He was going to stand up, mind his business, and not get
9 involved.

10 Q Not tell the police?

11 MS. SHARKEY: Objection.

12 THE COURT: What did he say?

13 Q What did he say?

14 A He wouldn't cooperate with the police.

15 Q That's what you told the defendant and his brother?

16 A Yes.

17 Q Did you go see Malcom again after that?

18 A Yes.

19 Q What did you discuss with him?

20 A I told Malcom to be --

21 MS. SHARKEY: Objection, hearsay.

22 THE COURT: Overruled.

23 You may answer.

24 Q Please.

25 A I told Malcom to be careful, to be on guard.

1 Q Why did you tell him that?

2 A 'Cause I liked the kid. I knew he was going to stand up
3 if there was a problem, and I didn't want him to get hurt.

4 Q Was he ever charged for the guns, to your knowledge?

5 A Not to my knowledge.

6 Q Did there come a time that you learned that Albert Gelb
7 was a court officer?

8 A Yes.

9 Q Did you learn that before or after he was killed?

10 A Before he was killed.

11 Q After you and Andrew met John and the defendant at the
12 junkyard, did you talk to the defendant again about Gelb?

13 A Yes.

14 Q Do you recall where you talked to him next?

15 A It was either at the Lindenwood Diner or the back gate of
16 the junkyard. I think it was the Lindenwood Diner.

17 Q That's the diner that was with him and his brother?

18 A Yes.

19 Q Do you remember anyone else being involved in the
20 conversation?

21 A Andrew Curro could have been involved in it. He could
22 have been in the vicinity.

23 Q This conversation, was it before or after Gelb was
24 killed?

25 A Before.

1 Q What did the defendant tell you?

2 A That he was trying to reach out and take care of the
3 situation with Albert Gelb, get him to back up and not show up
4 in court to testify.

5 Q Did he tell you what he meant by "reach out"?

6 MS. SHARKEY: Objection.

7 THE COURT: You may answer.

8 A He was trying to get a third party to intervene in the
9 situation that either knew Albert Gelb or somebody that didn't
10 know Albert Gelb to go and speak with him and straighten it
11 out.

12 Q You mentioned the case against the defendant. How long
13 did that case go on?

14 A The case with Albert Gelb?

15 Q Yes.

16 A It went on for a while.

17 Q Did you have any other conversation with the defendant
18 about Gelb before Gelb was killed?

19 A Just the fact that he was trying to reach the
20 defendant -- Albert Gelb.

21 Q How did you learn that Gelb was killed?

22 A From the newspapers.

23 Q Did you ever have a conversation, after Gelb was killed,
24 with the defendant about what had happened?

25 A Yes.

1 Q How long after he was killed?

2 A Maybe a couple of weeks, a month.

3 Q Where did that conversation take place?

4 A On the back steps of the diner.

5 Q The same back steps where the defendant shot Andrew
6 Curro?

7 A Yes.

8 Q What did the defendant tell you that day?

9 A He told me that the guy couldn't be reached and that he
10 wouldn't back up and he had to go, and, Nobody fucks with us.

11 Q What did you understand the defendant to mean?

12 A Understand him to mean?

13 MS. SHARKEY: Objection as to form.

14 THE COURT: I'll allow it.

15 A That the guy didn't want to stop his pursuit in
16 testifying against him, and it was either him or Charles. So,
17 it turned out to be Albert Gelb.

18 Q He said "us," the defendant told you "us," who did you
19 understand "us" to refer to?

20 A The Bergen crew.

21 Q John Gotti's crew?

22 A Yes.

23 Q Did the defendant tell you specifically who killed Gelb?

24 A No.

25 Q Do you recall whether there was anyone else in that

1 conversation?

2 A No.

3 Q How did that conversation arise?

4 A It just arose out of him trying to state to me what the
5 consequences are that happen to people that don't abide by
6 what they want done.

7 Q What did you say to the defendant when he told you what
8 had happened?

9 A There's nothing I could say.

10 Q What was the defendant's demeanor when he told you?

11 A Very serious.

12 Q Did you ever have any other conversation with the
13 defendant about Gelb?

14 A Maybe at the back gate of the junkyard another time.

15 Q Junkyard on Fountain Avenue?

16 A Yes.

17 Q What did he tell you that time?

18 A He thought that I was doing shady business with somebody
19 that was working for him in the junkyard, either Joe the
20 Indian or his cousin John, one of these guys, I was buying
21 tags or a car or something.

22 He just stated, You remember what happened to that
23 guy that fucked with me in the diner?, and stuff like that.

24 Q Now, you testified before that you got out of prison for
25 the armored-car highjackings in March of 1988; is that right?

1 A Yes.

2 Q And you testified at that time you were reporting
3 directly to John Carneglia?

4 A Yes.

5 Q And that John Carneglia was a captain at that time?

6 A Yes.

7 Q And the defendant was still an associate at that time?

8 A Yes.

9 Q And you were both in John Carneglia's crew?

10 A Yes.

11 Q And you testified, as well, that when you came home from
12 prison, that the defendant was on the lam, on the run?

13 A Yes.

14 Q And you testified that shortly thereafter, John Carneglia
15 went to prison for heroin distribution, and you began
16 reporting directly to the defendant; is that right?

17 A Yes.

18 Q What was your relationship like with the defendant at
19 that time?

20 A Good.

21 Q Around this time, did you get married?

22 A Yes.

23 Q To who?

24 A Gina Lofredo.

25 Q Where did you get the marriage certificate?

- 1 A Queens, New York.
- 2 Q Where did you get married?
- 3 A Croton-on-Hudson.
- 4 Q Upstate?
- 5 A Yes.
- 6 Q Who attended the wedding?
- 7 A Gina's Family, her father, mother, brother-in-law
- 8 Dominick, sister -- her sister, her aunt Stephanie, her
- 9 cousins, me, Charles, Kevin McMahon, David Prevette.
- 10 Q How did you get to the wedding?
- 11 A We drove up in Dave Prevette's car.
- 12 Q Who with?
- 13 A Charles and Kevin McMahon and Dave Prevette.
- 14 Q Did you go out to a diner after the reception?
- 15 A Yes.
- 16 Q Who attended?
- 17 A The people that were at the wedding.
- 18 Q Including the defendant?
- 19 A Yes.
- 20 Q Showing you what's been marked for identification as
- 21 Government's Exhibit 81. Do you recognize that?
- 22 A Yes.
- 23 Q What is it?
- 24 A That's a picture of the restaurant where we had the
- 25 reception in.

1 Q How many pictures?

2 A Two.

3 Q How did you get them?

4 A From me.

5 MR. NORRIS: Offered.

6 THE COURT: Admitted.

7 (So marked.)

8 Q Can you explain to the jury who is depicted in these
9 photographs in Government's Exhibit 81?

10 A I'm on the left, Charles is on the right.

11 My wife is on the immediate left to me in the second
12 picture, I'm in the middle, Charles is on the right, and I
13 think that's my wife's mother with her back to us.

14 Q And in the first photograph on the left?

15 A That's me right there.

16 That's Charles.

17 Q The defendant?

18 A Yes.

19 Q Did you have a best man at the wedding?

20 A Yes.

21 Q Who was it?

22 A Charles.

23 Q Did he sign the marriage certificate?

24 A No.

25 Q Why not?

1 A I was on federal parole.

2 Q Why did that matter?

3 A I didn't want to get violated.

4 Q Why would you have been violated by having the defendant
5 be your best man?

6 MS. SHARKEY: Objection.

7 THE COURT: You may answer.

8 A If Charles would have signed my marriage certificate, all
9 my parole officer would have had to do after he know I got
10 married check the city record and see that his name was on the
11 marriage certificate. They would have known I was associating
12 with organized crime and violated me.

13 MS. SHARKEY: Objection, move to strike.

14 THE COURT: Denied.

15 Q Who did sign the certificate for you?

16 A Dominick Colorra.

17 Q Who is that?

18 A He was my wife's sister's husband.

19 Q Why did you ask the defendant to be your best man?

20 A Because I had a longstanding relationship with him. I
21 was with him, his brother. I was loyal to them. I would have
22 done anything for him, he would have done anything for me, and
23 it was a good-standing thing in the family.

24 Q Have you ever known someone named Sal Puma?

25 A Yes.

1 Q Is he alive or dead?

2 A He's dead.

3 Q When did he die?

4 A While I was in the federal prison system in the '80s.

5 Q How did you know him?

6 A He was Joey Decalvacante's cousin, and he hung out with
7 Andrew and Joey and John Ruggiano and Charles and me once in a
8 blue moon.

9 Q And Joey is Joey Decalvacante?

10 A Yes.

11 Q And Andrew is Andrew Curro?

12 A Yes.

13 Q Both members of the defendant's crew at the time?

14 A Yes.

15 Q John Ruggiano, who was he?

16 A John Ruggiano was basically a close associate of
17 Andrew's.

18 Q Was Sal Puma in the defendant's crew?

19 A He liked him, Charles liked the guy, I mean, you know, at
20 the time.

21 Q But he wasn't formally in his crew?

22 A He wasn't. He could have been, you know. The kid hung
23 out.

24 Q What did Sal look like?

25 A Young skinny kid, dark hair, olive complexion, crazy

1 neighborhood kid.

2 Q And who was he related to?

3 A Joey Decalvacante's first cousin.

4 Q Do you know how old he was?

5 A He was in his mid-teens, late teens.

6 Q Do you know if he was involved in any illegal activity?

7 A He could have dealt a little bit of drugs with Joey and
8 Andrew. I really don't know. I never done nothing illegal
9 with him.

10 Q How frequently did you see him before you went to prison
11 in 1981?

12 A Quite often.

13 Q Weekly?

14 A I used to see him a couple of times a week, day, night,
15 you know.

16 Q You testified earlier that Andrew Curro and Joey
17 Decalvacante went to prison for the highjacking sometime after
18 you did; is that correct?

19 A The armored-truck robberies.

20 Q Do you know if Andrew was dating anyone before he went to
21 prison?

22 A Yes.

23 MR. FARBER: Objection.

24 THE COURT: I'll allow it.

25 Q Who?

1 A Donna Decalvacante.

2 Q Any relation to Joey?

3 A It's his sister.

4 Q Do you know if Joey was dating anyone before he went to
5 prison?

6 A A girl by the name of Stephanie.

7 Q What neighborhood was she from?

8 A Lindenwood.

9 Q Do you know her last name?

10 A No, I don't.

11 Q Do you know if Sal was dating anyone before he was
12 killed?

13 A Yes.

14 Q Who?

15 A Kim Albanese.

16 Q Do you know what happened to Kim Albanese after Sal was
17 killed?

18 MR. FARBER: Objection.

19 THE COURT: I'll allow it.

20 A She later went on to date John Gotti, Jr. and married
21 him.

22 Q Showing you what's in evidence as Government's Exhibit 28
23 -- showing you what's been marked for identification as
24 Government's Exhibit 28.

25 Do you recognize this?

1 A Sal Puma.

2 MR. NORRIS: We offer it.

3 THE COURT: Admitted.

4 (So marked.)

5

6 Q Now, around this time that you came home from prison in
7 1988, did you have a conversation with the defendant about Sal
8 Puma?

9 A Yes.

10 Q Where were you when you had that conversation?

11 A We were driving in a car in Lindenwood.

12 Q Whose car?

13 A It was somebody's car that either Charles borrowed or his
14 brother John borrowed. It was somebody in the crew's car. It
15 could have been a relative's car. I don't know whose car it
16 was exactly.

17 Q What kind of car was it?

18 A It was a station wagon.

19 Q Who was driving?

20 A Charles.

21 Q The defendant?

22 A Yes.

23 Q Where were you sitting?

24 A In the passenger's seat.

25 Q Anyone else with you two?

1 A No.

2 Q What time of day was it?

3 A Nighttime.

4 Q Why were you together that day?

5 A We were together figuring out what the future was going
6 to hold, what was going to happen with the marijuana business.
7 We were talking about old times. We were driving around
8 bullshitting.

9 Q Was it unusual for you to be together --

10 A No.

11 Q -- at that time?

12 A Not really.

13 Q What neighborhood were you in?

14 A Lindenwood.

15 Q Where specifically?

16 A We were on, I think, 156th or -- 156th Avenue.

17 Q And what street?

18 A 79th Street. We were making a right off the Avenue onto
19 79th Street.

20 Q You were driving what direction down 156th Avenue?

21 A We were going west.

22 Q And then when you made a right, what direction were you
23 going to up 79th Street?

24 A North.

25 Q How did Sal Puma come up?

1 A It was the place where he was killed, next to the garden
2 apartments.

3 Q What did the defendant say?

4 A He told me --

5 MS. SHARKEY: Objection.

6 THE COURT: I'll allow it.

7 A He told me he stabbed him in the chest with a knife right
8 there, and I looked over there, and that was that for that
9 conversation. He told me he wiggled the knife in him, small
10 knife.

11 Q You just --

12 THE COURT: Knife in whom?

13 THE WITNESS: Sal Puma.

14 Q At first, you gestured. You pointed. Did the defendant
15 point?

16 A Yes.

17 Q In which direction did he point?

18 A To my right.

19 Q What was to your right?

20 A The garden apartments.

21 Q What are the garden apartments?

22 A They are co-ops now in Lindenwood.

23 Q What do they look like?

24 A They just look like square-box attached apartments.

25 Q Detached?

1 A Attached.

2 Q How many stories?

3 A Two.

4 Q Again, what specifically did the defendant say?

5 A He said that he stabbed him and he wiggled the knife. He
6 used a small knife.

7 Q Did he make a motion to show the wiggling?

8 A Yes.

9 Q Did he say why he stabbed him?

10 A 'Cause he kept the commissary money that he was supposed
11 to be sending to Andrew Curro.

12 Q What's commissary money?

13 A Commissary money?

14 Q Yes. What is it?

15 A Commissary money is money that you spend monthly in
16 prison to buy things out of the commissary, such as hygiene
17 and foods.

18 Q Did he say anything about the blade that he used?

19 A It was a small blade. You don't need a long blade.

20 Q That's what he said?

21 A Yes.

22 Q Did the defendant say why he had Sal Puma putting money
23 into Andrew Curro's commissary account?

24 MR. FARBER: Objection.

25 THE COURT: Overruled.

1 A He stated that he gave the money to Sal because there was
2 a lot of investigation going on at the time, and he didn't
3 want his handwriting on the money order or his fingerprints,
4 because they could lift fingerprints off paper.

5 (Continued on next page.)
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1 CONTINUED DIRECT EXAMINATION

2 BY MR. NORRIS:

3 Q What did you say when the defendant told you he stabbed
4 Sal Puma to death?

5 A I didn't say anything. What could I say? It's not my
6 place to say anything.

7 Q Going back in time while you're still in prison, did you
8 have any conversations with anyone in the defendant's crew
9 about Sal Puma?

10 A Yes.

11 Q What year?

12 A I believe it was 1986.

13 Q Did you discuss with members of the defendant's crew the
14 fact that he had murdered Puma?

15 A Yes.

16 Q Is that when you had found out the defendant murdered
17 Puma?

18 A No.

19 Q Found out earlier?

20 A I found out in Otisville. Geeky told me.

21 Q What prison were you in when you discussed Puma's murder
22 with other members of the defendant's crew in 1986?

23 A Metropolitan Correctional Center.

24 Q That's the jail in Manhattan?

25 A Yes.

1 Q That's the prison you were in when you were preparing to
2 testify at John Gotti's trial?

3 A Yes.

4 Q What floor were you on in the prison?

5 A 11 South.

6 MR. FARBER: Objection, relevance.

7 THE COURT: I'll allow it.

8 Q 11 South?

9 A Yes.

10 Q Who else was there?

11 A We were in a dorm on 11 South. It was Joey Calvacante,
12 Andrew Curro, John Murgano and myself.

13 Q Again, both Curro and Calvacante were members of the
14 defendant's crew?

15 A Yes.

16 Q Close friends?

17 A Yes.

18 Q They were still in defendant's crew though they were in
19 jail?

20 A Yes.

21 Q Before you arrived at the MCC, where were you designated?

22 A Otisville.

23 Q Prison in New York?

24 A Upstate New York.

25 Q Andrew and Joey in Otisville, were they with you?

1 A No, Geeky was.

2 Q Had you spoken with either Andrew or Joey since your
3 incarceration in 1981?

4 A No, not until the day I got to MCC and we got together.

5 Q You've already told the jury allow you came to be at the
6 MCC to testify at the trial. Do you know, did Andrew and Joey
7 tell you how they came to be there?

8 MR. FARBER: Objection.

9 THE COURT: Sustained.

10 Q Where were you when you had the conversation with them
11 about the defendant killing Sal Puma?

12 MR. FARBER: Objection.

13 THE COURT: Sustained, strike it.

14 Q Where were you when you had the conversation with Andrew
15 and Joe specifically?

16 MR. FARBER: Objection.

17 THE COURT: Overruled.

18 A We were in the dormitory on 11 South in a little section
19 we had sectioned off for ourselves.

20 Q How did the conversation arise?

21 MR. FARBER: Objection.

22 THE COURT: Overruled.

23 A The conversation arose when I asked Joey what he's going
24 to do when he goes home, if he's going to be able to trust
25 Charles after Charles killed his cousin.

1 MR. FARBER: Objection.

2 THE COURT: Sustained. Strike it.

3 Q Was the conversation a serious one?

4 MR. FARBER: Objection.

5 THE COURT: I'll allow it.

6 MR. NORRIS: I'll lay a foundation.

7 A Yes.

8 Q Why was the conversation serious?

9 MR. FARBER: Objection.

10 THE COURT: Sustained.

11 Q Not saying what the conversation was about, why was the
12 conversation a serious one in your mind?

13 MR. FARBER: Objection.

14 THE COURT: That I'll allow.

15 A Because Joey and Sal were cousins. Joey was going home
16 shortly and he should have worried what Charles had in his
17 mind as far as --

18 MR. FARBER: Objection --

19 A -- as far as retaliation.

20 THE COURT: Sustained. Strike it.

21 Q Why was it important that Joey and the victim, Sal Puma,
22 were cousins?

23 MR. FARBER: Objection.

24 THE COURT: I think we've gone enough with this.

25 Move to another topic.

1 MR. NORRIS: Sorry, Judge?

2 THE COURT: Move to another topic.

3 Q Turning to the murder of Louie DiBono, what was Louie
4 DiBono's position in the Gambino family?

5 A I believe he was a soldier.

6 Q Have you ever had a conversation with the defendant about
7 Louie DiBono?

8 A Yes.

9 Q When did that conversation occur?

10 A It occurred when they were trying to whack Louie DiBono
11 out.

12 Q I'll stop you right there. When did the conversation
13 occur?

14 A Some time in the '90s.

15 Q Early '90s?

16 A Early '90s.

17 Q Where did the conversation take place?

18 A Charles' house.

19 Q Which house?

20 A His mother's house on 85th Street in Howard Beach.

21 Q Where in the house?

22 A It could have been in the front of the house, on the side
23 of the house.

24 Q Why were you at his house that day?

25 A I used to go there frequently to report in.

1 Q Had you been sent for that day?

2 A I could have been.

3 Q Do you recall how you got to the defendant's house that
4 day?

5 A I drove.

6 Q Where did you park?

7 A I always parked around the block.

8 Q Why?

9 A In case anybody was surveilling the house. I always
10 drove around the neighborhood before I went to the house, be
11 evasive about being seen going to the house by federal
12 authorities or state authorities.

13 Q Who was there when you arrived?

14 A Charles.

15 Q Anyone else?

16 A Kevin McMahon.

17 Q That's the defendant's close associate?

18 A Yes.

19 MR. FARBER: Objection.

20 THE COURT: Overruled.

21 Q Where did you go when you arrived?

22 A Where did I go? I went in the house, to the house. I
23 rang the bell.

24 Q Did the defendant take you in the house?

25 A Either to the back yard or the side yard.

1 Q Did he say why he wants to stay outside?

2 A Yes --

3 MR. SHARKEY: Objection.

4 THE COURT: Overruled.

5 Q What did he say with respect to why he wants to stay
6 outside?

7 A Surveillance.

8 Q Did McMahon come with you guys?

9 A No.

10 Q When you got to the side yard or backyard, how did the
11 defendant speak to you?

12 MR. SHARKEY: Objection.

13 THE COURT: Overruled.

14 A He told me he needed me to be on call.

15 Q First, how did the defendant speak to you, in a loud
16 voice?

17 A No, quiet.

18 Q Where were you standing when you spoke with him?

19 A Next to him, very close.

20 Q What did he say to you?

21 MR. SHARKEY: Objection.

22 THE COURT: Overruled.

23 A He needed me to be on call.

24 Q Did he say why?

25 A He had to whack out Louie DiBono and he needed me to be

1 on call.

2 MR. SHARKEY: Objection.

3 THE COURT: Excuse me. Allow him to finish. Read
4 back what the witness said and then you can make your
5 objection.

6 MR. SHARKEY: Thank you.

7 (Read back.)

8 MR. SHARKEY: Objection.

9 THE COURT: Overruled.

10 Q What did you understand him to mean by whack out Louie
11 DiBono?

12 A He had to kill him.

13 Q What did you understand him to mean by saying he wants
14 you to be on call?

15 A Available all the time.

16 Q To do what?

17 A To proceed with the situation to get Louie DiBono.

18 Q What did you say when the defendant told you he wants you
19 to be on call; that he had to whack Louie DiBono?

20 A What do you want me to do?

21 Q You agreed?

22 A Of course.

23 Q Did you say anything else?

24 A Do you want me to go get a car? What do you want to do?
25 How do you want to do this? When do you want to do it? He

1 also stated to me that Bobby Borriello wasn't being
2 responsible; that he's not showing up. That's why he needs me
3 to be on call.

4 Q Who is Bobby Borriello?

5 A He was a made member in the family.

6 Q Did you know him at the time?

7 A Yes.

8 Q Was the defendant a made member at the time?

9 A No.

10 Q Did the defendant tell you why Louie DiBono had to get
11 whacked?

12 A Yes.

13 Q What did he tell you?

14 MR. SHARKEY: Objection.

15 THE COURT: Overruled.

16 A He told me he didn't come in when John sent for him and
17 John wanted it taken care of right away. It was taking too
18 long.

19 Q What did you understand him to mean by John?

20 A John Gotti, the boss.

21 Q What does it mean to come in?

22 A When you're sent for, you come in, see what they want.

23 Q Did the defendant tell you who specifically sent for the
24 defendant?

25 A The boss.

1 MR. NORRIS: Withdrawn.

2 Q Did the defendant tell you who specifically had sent for
3 Louie DiBono?

4 A Yes, the boss.

5 Q Did the defendant tell you why they wanted DiBono to come
6 in?

7 A There was some kind of discrepancy over construction or
8 something. It really didn't matter to me; just that it was a
9 discrepancy.

10 Q Did he tell you who the discrepancy involved?

11 A I think it was with Sammy the Bull.

12 Q What was his position at the time?

13 A Underboss.

14 Q Did the defendant tell you anything else about Bobby
15 Borriello at the time?

16 A Just that he wasn't being responsible and he's not
17 showing up to take care of the situation.

18 Q What did you understand him to mean by that?

19 A That he's not showing up on time. He's not doing what
20 he's supposed to be doing to take care of this.

21 Q To do what?

22 A Kill Louie DiBono.

23 Q Did Bobby Borriello have any relationship with John
24 Gotti, Senior at the time?

25 MR. FARBER: Objection.

1 THE COURT: You may answer.

2 A He was his driver, his bodyguard, close associate.

3 Q Describe him physically.

4 A Big fella, tough.

5 Q I'm showing you what's in evidence as Government?

6 Exhibit G G G. Who is that?

7 A Bobby Borriello.

8 Q What is the highest position he ever obtained in the
9 Gambino family?

10 A He was a soldier and John's driver.

11 Q What happened after you had the conversation with the
12 defendant in the backyard or the side yard of his house?

13 A I stood on call and waited. Later on Louie DiBono was
14 killed and that was that.

15 Q How long after you had that conversation with the
16 defendant was DiBono killed?

17 A I think within a month.

18 Q How did you find out that Louie DiBono got killed?

19 A From Charles.

20 Q The defendant?

21 A Yes.

22 Q Where did he tell you that?

23 A Backyard of the house.

24 Q Same house?

25 A Yes.

1 Q Who else was there?

2 A Just me and him.

3 Q How did you come to be there that day?

4 A I reported in.

5 Q What exactly did the defendant tell you?

6 MR. SHARKEY: Objection.

7 THE COURT: Overruled.

8 A That they shot the guy in the head and he was laying down
9 like three feet off the ground.

10 Q What did you understand him to mean?

11 A That Louie DiBono was as fat as a whale.

12 Q Tell the jury the exact words you recall the defendant
13 using when he described what they did.

14 A When they shot him, fell down and he was that high off
15 the ground (indicating).

16 Q What words did he use?

17 THE COURT: Indicating with his hand two and a half
18 feet approximately.

19 Q What words did the defendant use when he described that?

20 A That he was this high off the ground (indicating).

21 Q What words did the defendant use to describe Louie DiBono
22 when he gestured to you how high up he was off the ground?

23 MR. FARBER: Objection, asked and answered.

24 THE COURT: Overruled. You may answer.

25 A That he was fat; that he was large. He was a big man.

1 Q Did the defendant tell you where the murder took place?

2 A Yes.

3 Q Where?

4 A In the World Trade Center parking lot.

5 Q Did he tell you who he did it with?

6 A Bobby Borriello.

7 Q What did he say specifically about Bobby?

8 A Specifically when they did the killing.

9 Q What did he say about Bobby?

10 A That Bobby was there with him.

11 Q Did he tell you if anyone else was there?

12 A No.

13 Q You testified the defendant told you he shot Louie
14 DiBono, did he tell you where he shot him?

15 A In the head.

16 Q Did he tell you what he shot him with?

17 A I think it was with a .25 with a silencer or .22 with a
18 silencer.

19 Q Did he tell you whether they were inside a car or outside
20 of a car when they killed DiBono?

21 MR. FARBER: Objection, leading.

22 A They left him in his car.

23 THE COURT: Objection overruled.

24 Q Did the defendant tell you what they did with the body?

25 A They left it in the front seat of his car.

1 Q Did the defendant say what Bobby Borriello's role was?

2 A No.

3 Q What did you say when the defendant told you he killed
4 Louie DiBono?

5 A Congratulations.

6 Q Why did you say congratulations?

7 A Because that was Charles' step into the family.

8 Q Did he tell you that?

9 A No, but it was a well known fact. Kevin is someone that
10 told me. He hinted around about it.

11 MR. SHARKEY: Objection, move to strike.

12 THE COURT: Try to be more specific. Strike it.

13 Q We'll get to McMahon in a moment. You told the defendant
14 congratulations?

15 A Yes.

16 Q Did the defendant say to you anything else after he told
17 you he killed Louie DiBono?

18 A No.

19 Q Did he say to you anything else about what was going to
20 happen to him?

21 A No.

22 Q Where did you go after he told you he killed Louie
23 DiBono?

24 A I seen Kevin McMahon, walked up the block to Carol's
25 house.

1 Q Where did you see Kevin McMahon?

2 A Outside Charles' house.

3 Q The front or the back?

4 A The front outside, on the sidewalk.

5 Q What did you and Kevin McMahon do when you first saw him?

6 A He walked up the block to Carol's house.

7 Q Did he show you anything before you walked up the block?

8 A He showed me the newspaper article.

9 Q Where did he show you the newspaper article?

10 A By Carol's house.

11 Q Where was he when he showed you the newspaper article?

12 A Where was he?

13 Q Where was he?

14 A He was outside Carol's house.

15 Q What did the newspaper article say?

16 A It was about Louie DiBono's murder.

17 MR. FARBER: Objection.

18 THE COURT: Overruled.

19 Q Did Kevin McMahon say anything to you at that time?

20 A That Charles is in.

21 MR. SHARKEY: Objection, move to strike.

22 THE COURT: Denied.

23 Q Tell us, again, what Kevin McMahon told you when you
24 walked up the block with him.

25 MR. FARBER: Objection.

1 THE COURT: No, I think we've had enough of that
2 anyway.

3 Q What did you understand him to mean when he said "we're
4 in"?

5 MR. SHARKEY: Objection.

6 THE COURT: I'll allow it.

7 A Charles was going to get made. He was going to get
8 straightened out.

9 Q What did you say?

10 A Good, great.

11 Q You know what later happened to Bobby Borriello?

12 A He was killed.

13 Q When?

14 A I think shortly after Charles was straightened out.

15 Q Do you know who killed him?

16 A No.

17 MR. NORRIS: Judge, if we could, this might be a
18 good time for a break.

19 THE COURT: Yes, take ten, please.

20 (Jury leaves courtroom).

21 THE COURT: Thank you.

22 MR. BURLINGAME: If I might, if the defense is
23 going to continue to object every time the defendant makes an
24 admission of a crime he committed, I ask we be allowed to ask
25 repetitive questions. What's happening, the testimony, this

1 key testimony is getting lost because there's objections for
2 the testimony. We should be able to re-ask the question to
3 make sure the answer is given.

4 THE COURT: If it's necessary to re-ask the
5 question, read it back, read the answer back, I will take care
6 of it.

7 (Recess.)

8 MR. BURLINGAME: You're aware of the snow?

9 THE COURT: What about the snow?

10 MR. BURLINGAME: Worse in Long Island rather than
11 here. I'm concerned.

12 THE COURT: What does the marshal say?

13 MR. BURLINGAME: I didn't speak to the marshal
14 about it.

15 THE COURT: Could we get a check from the marshal
16 about whether he wants to break early? It's the marshal
17 that's arranging for transportation so that whatever the
18 marshal says I'll follow. Just let me know, please.

19 MR. FARBER: We're talking about the weather?

20 THE COURT: Yes.

21 MR. SHARKEY: Respectfully, also you're going to
22 check about the morning schedule? I had heard news it was
23 supposed to snow all night. I don't know if that's still
24 accurate.

25 THE COURT: Please get me a current weather report.

1 THE CLERK: Yes, your Honor.

2 MR. BURLINGAME: I want to note for the record
3 myself and a couple of other members of the government team,
4 when your Honor asked the question about whether or not any of
5 the jurors knew the witness, the juror who the witness
6 believed he identified, I saw sort of suppress a smile, looked
7 up at the ceiling for a number of minutes. I don't know
8 exactly what your Honor wants to do with that information.

9 THE COURT: I observed him very carefully. I was
10 watching him.

11 MR. SHARKEY: Sorry?

12 THE COURT: I observed him carefully. I was
13 watching him. I see no reason for taking further action at
14 this point.

15 MR. SHARKEY: I agree.

16 THE COURT: You stopped the witness from coming in?

17 MR. BURLINGAME: Yes, I'll get him.

18 (Witness enters courtroom.)

19 THE COURT: How much longer do you have with this
20 witness?

21 MR. NORRIS: About -- I don't think we'll quite
22 finish today.

23 THE COURT: You won't finish?

24 MR. NORRIS: I don't think so.

25 THE COURT: Very well.

1 THE CLERK: Ready for the jury?

2 THE COURT: Yes. The marshal recommends letting
3 the jury go early today and bringing in the jury at 10:00
4 o'clock tomorrow in view of the snow emergency.

5 Does everybody agree?

6 MR. SHARKEY: Certainly.

7 MR. BURLINGAME: No objection, Judge.

8 THE COURT: However, counsel will be here at 9:30.

9 MR. NORRIS: What time does your Honor plan on
10 breaking today?

11 THE COURT: Immediately. That's the marshal's
12 recommendation.

13 Bring the jury in.

14 (Jury enters courtroom.)

15 THE COURT: Will the marshals please make
16 arrangements for the immediate release of the jury?

17 THE MARSHAL: Right now?

18 THE COURT: Yes.

19 Ladies and gentlemen, the marshal informs me there
20 may be a snow emergency. The snow is heavier out towards the
21 east end of the island. Therefore, I'm releasing you
22 immediately so the marshal can help you get home.

23 Tomorrow morning, since it may snow overnight, be
24 here at 10:00 o'clock instead of 9:30, please. Is that
25 satisfactory to everybody? Good. Take care of yourselves.

1 Be careful.

2 (Jury leaves courtroom.)

3 THE COURT: It's now 3:40.

4 THE COURT: Any applications?

5 MR. BURLINGAME: No, Judge.

6 THE COURT: See you all at 9:30. Good night.

7 (Whereupon this matter concluded for this date.)

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1 I N D E X

2 W I T N E S S E S:

3 V I N C E N T O H A R A 785

4 CROSS-EXAMINATION 785

5 REDIRECT EXAMINATION 790

6 794

7 Peter Zuccaro

8 DIRECT EXAMINATION 794

9

10 E X H I B I T S:

11 Court Exhibit 2 770

12 Court Exhibit 1 770

13 Court Exhibit 3 782

14 Court Exhibit 4 791

15

16

17 2-UU 860

18 2-JJJJ. 861

19 2-AAAA 863

20 2-V V V 904

21 2-BBBB 905

22 2-FFFF 906

23 81 969

24 28 974

25

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